

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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October 16, 2013
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HELD AT: 250 Broadway - Committee Rm,
14th Fl.

B E F O R E:
JAMES F. GENNARO
Chairperson

COUNCIL MEMBERS:
Elizabeth S. Crowley
G. Oliver Koppell
Brad S. Lander
Stephen T. Levin
Donavan Richards
Peter F. Vallone, Jr.

A P P E A R A N C E S (CONTINUED)

Steven Caputo
Deputy Director
Mayor's Office of Long-term Planning
and Sustainability

Gerry Kelpin
Assistant Commissioner
Department of Environmental Protection

Keith Kerman
Chief Fleet Officer
Deputy Commissioner
DCAS

Dean McCann
Executive Director
Production and Operations
Mayor's Office of Film, Theatre
and Broadcasting

Dana Kuznetzkoff
Producers Guild of America East

Mari Jo Winkler
Executive Producer
Producers Guild of America East

Jane Nunez
Vice President
Association of Independent Commercial
Producers

Angela Miele
Motion Picture Association of America

Stuart Suna
Silvercup Studios

A P P E A R A N C E S (CONTINUED)

Russell Sagerman
Technical Director
Feature Systems

John Ford
President Local 52
Motion Picture Studios Mechanics

James Fanning
Vice President
Theatrical Teamsters, Local 817

Dehran Duckworth
Tri-State Biodiesel

Shelby Neal
Director of State & Local
Governmental Affairs
National Biodiesel Board

John Maniscalco
CEO
New York Oil Heating Association

Daniel Gianfalla
President
United Metro Energy Corporation

Scott Hedderich
Director of Corporate Affairs
Renewable Energy Group

2 CHAIRPERSON GENNARO: Councilman Jim
3 Gennaro, Chair of the Committee on Environmental
4 Protection and today the Committee will hear proposed
5 Intro 705 in relation to the use of b-5 in diesel-
6 powered generators used in the production of films,
7 TV programs; ads and at street fairs in New York
8 City.

9 The Committee will also hear proposed
10 Intro 1047, which would require the use of b-5 in
11 city-owned buildings.

12 Finally, the Council will consider the
13 effectiveness of Local Law 43 of 2010, which required
14 the use of at least 2 percent biodiesel in fuel-
15 burning equipment in the City of New York.

16 Heating oils are a major source of air
17 pollutants in New York City; while some of the City's
18 air pollutants are generated outside of the City by
19 power plants, vehicles and other sources, a large
20 portion of the pollutants are generated by in-city
21 emissions, primarily from vehicles and heating
22 systems.

23 New York's air quality consistently
24 violates the EPA'S National Ambient Air Quality
25 Standards for the... you know, so-called criteria

1 pollutants that are spelled out in the Clean Air Act,
2 although everyone heard the announcement that we have
3 the... you know, we have the cleanest air in New York
4 City in 50 years, so this is not rain on the parade,
5 this is... you know, it is what it is; also, I didn't
6 write this, okay, so let's...

7 [laughter]

8 CHAIRPERSON GENNARO: I'm just sayin',
9 you know. You know, when you're goin' out, just have
10 fun; you know what I mean, just... just... life is short;
11 have fun, laugh... [interpose]

12 [background comments]

13 CHAIRPERSON GENNARO: you know what I
14 mean, it's just... I mean, at least we're in session;
15 what's goin' on in Washington...? [interpose]

16 [laughter]

17 CHAIRPERSON GENNARO: At least we're not
18 shut down, okay, so if we're... you know, have a little
19 fun; at least we're... you know... [interpose]

20 [background comment]

21 CHAIRPERSON GENNARO: least we're... least
22 we're doin' our work, for cryin' out loud. Where was
23 I? New York City's air quality standards... I already
24 said that... and the City is designated a, you know,
25

2 nonattainment area for ozone, PM 2.5, pursuant to the
3 Clean Air Act; other pollution, such as... well, I'll
4 use the shorthand, knocks and stocks and nickel will
5 also remain at higher concentrations in the air than
6 we would like.

7 These pollutants are conclusively linked
8 with a variety of health problems. Biodiesel is used
9 as a substitute for or an additive to petroleum-based
10 diesel fuel and this pure form biodiesel requires
11 special handling and possible equipment
12 modifications; it is therefore used most frequently
13 in blends, along with conventional petroleum-based
14 diesel; everyone here knows that.

15 The use of biodiesel in place of
16 conventional petroleum-based diesel home heating oil
17 or to power generators has benefits for local air
18 quality. Emissions of PM, CO, hydrocarbons, knocks
19 and stocks are all lower for biodiesel blends than
20 for all grades of conventional home heating oil.

21 In July of 2010 the Council passed Intro
22 0194 A, in August of that year the Mayor signed the
23 bill, resulting in the implementation of Local Law 43
24 of 2010. The law requires with some exceptions that
25 buildings in New York City burn No. 2 or No. 4 or

2 No. 6 heating oil. The law requires with some
3 exceptions... I'll read that... didn't get that sentence
4 right... with some exceptions that buildings in New
5 York City burn a No. 2, 4 or 6 heating oil, switch to
6 heating oil that contains at least 2 percent
7 biodiesel.

8 Proposed Intro 705 would require any
9 diesel-powered generator used in the production of TV
10 shows, movies or ads or for street fairs to use b-5
11 or/and alternative, as is currently done for
12 permissible fuel types. The Mayor's Office of Film,
13 Theatre and Broadcasting, and they are represented on
14 the panel with the Administration, must inform all
15 producers of TV shows, movies and ads to whom they
16 issue a permit, information about the requirements to
17 use b-5 diesel or the alternative and the Street
18 Activity Permit Office would inform street fair
19 operators of the requirements to use b-5 diesel fuel
20 or the alternative.

21 Proposed Intro 1047 would require that
22 all heating oil purchased by the City for city-owned
23 buildings after October 1st, 2013... I don't think we
24 mean that; do we mean 2014; what do we mean? It's
25 already after October 1.

2 COMMITTEE COUNSEL: [laughter] Yeah.

3 CHAIRPERSON GENNARO: Okay... [interpose]

4 [background comment]

5 CHAIRPERSON GENNARO: Yeah, this is...

6 we're in the movie business; this'll just be kinda

7 take one; you know what I mean; we could do a take

8 two... [interpose]

9 [laughter]

10 CHAIRPERSON GENNARO: I'm stepping out of

11 character, I'm talking to the camera; I'm like Woody

12 Allen here...

13 [laughter]

14 CHAIRPERSON GENNARO: So for city-owned

15 buildings after the 1st of October, I'm guessing

16 2014, contain no less than 5 percent of biodiesel by

17 volume. The requirement would not apply to heating

18 oil purchased for emergency generators.

19 One of the goals of PlaNYC, and we love

20 PlaNYC, was to achieve the cleanest air of any large

21 city in the country; we've basically done that; the

22 legislation previously passed and market created by

23 the use of biodiesel has not only approved our air

24 quality, but has grown jobs and reduced our reliance

25 on fossil fuels.

2 This legislation will also provide health
3 benefits for the most vulnerable people in our city;
4 everyone is impacted by poor air quality, but certain
5 groups have more serious impacts than others, due to
6 their greater susceptibility at the same levels of
7 air pollution. Most studies have found greater
8 susceptibility to air pollution in vulnerable
9 populations, including the elderly and kids of all
10 groups disproportionately impacted by air pollution;
11 most research has involved adverse health impacts to
12 children.

13 With the legislation being heard today we
14 move even closer to the goals of PlaNYC and we
15 achieve the health benefits most desperately needed
16 by the most vulnerable groups and individuals.

17 This is quite a dramatic opening
18 statement; I think this is... [interpose]

19 [laughter]

20 CHAIRPERSON GENNARO: I think the people
21 in the movie industry should take notice of a
22 possible script writer or you know we have talent
23 here and... did you write this; you write this?

24 COMMITTEE COUNSEL: Yes.
25

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2 CHAIRPERSON GENNARO: Okay. This... this
3 was written by Samara and... [interpose]

4 COMMITTEE COUNSEL: [laughter]

5 CHAIRPERSON GENNARO: she's available to,
6 you know, talk to the movie people... [interpose]

7 COMMITTEE COUNSEL: [laughter]

8 CHAIRPERSON GENNARO: and so that's all...
9 that's all good.

10 Okay, let me recognize that we're joined
11 by Council Member Koppell, Council Member Richards,
12 Council Member Vallone; I think Council Member
13 Koppell has an introduction to make.

14 COUNCIL MEMBER KOPPELL: Thank you Mr.
15 Chairman; I'm joined today by two assistants who
16 happen to be grandchildren and Elsa and William
17 Koppell, who are in the first row... [interpose]

18 [applause]

19 COUNCIL MEMBER KOPPELL: and Mr.
20 Chairman... thank you... because we have other urgent
21 duties... [interpose]

22 CHAIRPERSON GENNARO: Right.

23 COUNCIL MEMBER KOPPELL: I will hear from
24 you about the result of the hearing... [interpose]

25

2 CHAIRPERSON GENNARO: Sure, you bet.

3 Okay.

4 COUNCIL MEMBER KOPPELL: and appreciate
5 it very much. Thank you and thank you... [crosstalk]

6 CHAIRPERSON GENNARO: Yeah, thank you.

7 COUNCIL MEMBER KOPPELL: I probably will
8 have an opportunity to say this 'cause we'll still be
9 around for a couple months... [interpose]

10 CHAIRPERSON GENNARO: Right.

11 COUNCIL MEMBER KOPPELL: but I have
12 appreciated very much being on this committee with
13 you.

14 CHAIRPERSON GENNARO: It is great to have
15 had you on this committee and to have you for... and
16 even though I think I've done a pretty good job,
17 you've served for decades with great distinction as
18 Chair of the Committee on Environmental Conservation
19 for the State Assembly and you know, the stable
20 drive, you know, benefits for generations based on
21 your, you know leadership... [crosstalk]

22 COUNCIL MEMBER KOPPELL: Thank you.

23 Thanks so much.

24 CHAIRPERSON GENNARO: and so this is a
25 big nachas moment for... [interpose]

2 [laughter]

3 CHAIRPERSON GENNARO: for Council Member
4 Koppell with his grandchildren; he's kvelling and
5 shepping nachas in abundance... [interpose]

6 [background comment]

7 [laughter]

8 CHAIRPERSON GENNARO: and so... yeah...
9 [interpose]

10 [background comment]

11 CHAIRPERSON GENNARO: I'm good.

12 [laughter]

13 CHAIRPERSON GENNARO: I've... Yeah, I've
14 learned from my constituents... [interpose]

15 [laughter]

16 CHAIRPERSON GENNARO: and with that said,
17 I'll get down to business now and we'll call the
18 panel for the Administration. We have Keith Kerman
19 from DCAS; he's a Deputy Commissioner and he deals
20 with fuel stuff, Gerry Kelpin, an Assistant
21 Commissioner from DEP; she deals with air stuff, Dean
22 McCann, of the New York City Office of Film, Theatre
23 and Broadcasting and Steve Caputo from the Mayor's
24 Office of Long-Term Planning and Sustainability.
25 It's a pleasure and honor to have you here with us; I

1
2 made, you know reference before to the cleanest air
3 in New York City for the last 50 years and you know,
4 that is due to the leadership of the Mayor, through
5 the agencies and you know, through the good work of
6 the Office of Long-term Planning and Sustainability
7 and DEP and very... you know, grateful for your
8 dedicate service to the City in making the air
9 cleaner. With that said; notwithstanding all these
10 compliments, we're still gonna swear you in, so you
11 know, that's how it goes.

12 [laughter]

13 CHAIRPERSON GENNARO: So if the counsel
14 can swear the panel we can proceed.

15 COMMITTEE COUNSEL: Can you please raise
16 your right hands? Do you swear; affirm to tell the
17 truth, the whole truth and nothing but the truth
18 today?

19 CHAIRPERSON GENNARO: Thank you, yes and
20 I don't have a copy of the Administration testimony,
21 but I would... [interpose]

22 [background comment]

23 CHAIRPERSON GENNARO: I would like to
24 have that.

25 COMMITTEE COUNSEL: Here it is.

2 CHAIRPERSON GENNARO: Okay. And it's my
3 hope that the Administration will have you know
4 something to say about all the items on the agenda
5 today; the Oversight topic is the two bills under
6 consideration and with that said, whoever's gonna
7 speak on behalf of the Administration, please
8 identify yourself for the record and proceed with
9 your good testimony. I think your mic is off; try
10 that now. Great, you're good now. Great.

11 STEVEN CAPUTO: Good afternoon Chairman
12 Gennaro and members of the Environmental Protection
13 Committee; my name is Steven Caputo; I'm Deputy
14 Director of the Mayor's Office of Long-term Planning
15 and Sustainability.

16 I'm joined here today by Keith Kerman,
17 Deputy Commissioner at the Department of Citywide
18 Administrative Services, sitting to my right, Dean
19 McCann, the Executive Director of Production and
20 Operations at the Office of Film, Theatre and
21 Broadcasting, to my immediate left, and Gerry Kelpin,
22 the Director of the Air and Noise Enforcement and
23 Policy Unit at DEP.

24 We're pleased to have the opportunity to
25 testify today about the successful implementation of

2 Local Law 43 of 2010, which for the first time
3 required that all heating oils sold in New York City
4 contain at least 2 percent biodiesel, and also
5 discuss two proposed pieces of legislation, Intros
6 1047 and 705, which seek to expand the b-2 biodiesel
7 requirement to the use of b-5 in certain
8 applications.

9 Before I really launch into the testimony
10 I wanna thank you, Chairman Gennaro and the other
11 members of the Environmental Protection Committee for
12 the leadership that you've shown over the past 12
13 years, not only on, you know encouraging use of
14 biodiesel and renewable fuels, but also across really
15 a broad spectrum of issues that have helped to
16 advance the sustainability and livability of New York
17 City and think... [crosstalk]

18 CHAIRPERSON GENNARO: Thank you; it's
19 been a good ride.

20 STEVEN CAPUTO: many of my colleagues
21 share that sentiment, so thanks... [crosstalk]

22 CHAIRPERSON GENNARO: Thank you very
23 much.

24 STEVEN CAPUTO: And today's hearing also
25 indicates that like members of the Bloomberg

2 Administration, this committee is working hard over
3 the next 77 days to make every last minute count and
4 we look forward to continuing to work with you.

5 So at the outset I'd like to express
6 support for the objective of expanding biodiesel use
7 in New York City, both in the transportation and
8 building sectors.

9 As a renewable fuel that can
10 significantly reduce greenhouse gas emissions on a
11 lifecycle basis compared to conventional petroleum
12 fuels and also lead to reductions in air pollutants,
13 expanding the use of biodiesel will help us meet our
14 many PlaNYC goals. These goals include a citywide
15 reduction in greenhouse gas emissions of 30 percent
16 by 2030, a reduction in city government emissions of
17 30 percent by 2017, in just 10 years, and we've made
18 considerable progress on both of these goals.

19 CHAIRPERSON GENNARO: Right and also... I'm
20 just gonna jump in for a second, 'cause you know the...
21 words matter and to the credit of the Bloomberg
22 Administration and to the Council, you know, the word
23 goals is a good word, but actually it's a mandate and
24 so... [interpose]

25 STEVEN CAPUTO: Right.

2 CHAIRPERSON GENNARO: so it's...

3 [interpose]

4 STEVEN CAPUTO: That was my next...

5 CHAIRPERSON GENNARO: What's that?

6 STEVEN CAPUTO: That was my next
7 sentence; I was gonna give you credit for mandating
8 these... [crosstalk]

9 CHAIRPERSON GENNARO: Oh okay, sure. I...
10 I... I...

11 STEVEN CAPUTO: those targets...

12 [interpose]

13 [laughter]

14 STEVEN CAPUTO: that... that the... and uh...

15 [crosstalk]

16 CHAIRPERSON GENNARO: I jump in too soon...
17 I just follow the script, see; lot of movie talk I'm
18 gonna mix in here today, so I should follow the
19 script and... [interpose]

20 STEVEN CAPUTO: No, I... I think... I mean I
21 think that that's so essential that the City Council
22 saw the merit in those goals and actually made them
23 enforceable by law and advocated for supportive
24 policies and budgets and whatnot, so... and I think as
25 a result of that the City's emissions in 2012 were 16

2 percent below the 2005 levels and that's more than
3 halfway towards the 30 by 30 goal. And in the coming
4 weeks we'll announce our 2013 greenhouse gas
5 inventory, which will show even more substantial
6 progress. I'm gonna describe later on the role that
7 biodiesel played in those reductions.

8 The use of biodiesel also helps to
9 advance the important PlaNYC goal of achieving the
10 cleanest air quality of any major city in the U.S.
11 Thanks to the City's comprehensive approach to
12 phasing out the use of heating oil, heavy heating
13 oil, excuse me, of which Local Law 43 was a
14 cornerstone, the City's air quality is cleaner today
15 than at any point in the last 50 years. And I will
16 describe in greater detail the associated
17 improvements in air quality that we've achieved as
18 we've transitioned to cleaner heating oils and other
19 fuels, including biodiesel, which have resulted in
20 hundreds of lives saved and thousands of ER and
21 hospital visits prevented.

22 And just to follow up on a point you made
23 about attainment of EPA criteria standards, we're in
24 the process now of evaluating that; we think that
25 we'll be much closer to meeting those standards and

2 in some cases may meet those standards, so that's an
3 ongoing... [interpose]

4 CHAIRPERSON GENNARO: Great.

5 STEVEN CAPUTO: process now, but thank
6 you for pointing that out.

7 This afternoon I'd like to offer a brief
8 appraisal of the City's efforts to transition to
9 cleaner fuels, which included as a cornerstone, Local
10 Law 43 of 2010 and also city government's aggressive
11 piloting of biodiesel in both buildings and fleets,
12 which led to its receipt of the 2011 Influence Award
13 for biodiesel leadership by the National Biodiesel
14 Board.

15 The City's experiences using biodiesel in
16 both its fleets and buildings with only minimal
17 growing pains and largely beneficial outcomes is the
18 reason that we will strongly support Intro 1047 to
19 require 5 percent biodiesel content or b-5 in all
20 city-owned buildings, with one caveat, which is that
21 the Council consider some minor refinements to the
22 b-10 pilot program, which I'll suggest later on in
23 the testimony.

24 As you know, Keith Kerman, who I'm joined
25 today, testified for this Committee this summer in

1 strong support of a similar bill, Intro 0106 A, which
2 requires the use of b-5 in all city fleets today and
3 by 2016 requires the wintertime use of b-20. We
4 appreciated the Council's willingness to work with
5 the City to ensure that the wintertime b-20 pilot had
6 the best chances of succeeding; we hope that we can
7 work in a similar fashion on this bill.
8

9 I'll then move on to discuss the City's
10 position on Intro 705, which would require the use of
11 b-5 biodiesel in generators that are used in the
12 production of films, television programs and
13 advertisements and at street fairs in New York City.

14 While we are supportive of the objectives
15 of expanding biodiesel use in different sectors in
16 the City, we do have concerns about this bill related
17 to fuel accessibility for the industry, impacts on
18 operations and the challenges that would emerge from
19 pursuing the growth of the biodiesel marketplace in a
20 piecemeal rather than comprehensive fashion.

21 As an alternative to targeting specific
22 industries for biodiesel growth we would suggest
23 examining broader approaches to expanding the
24 marketplace, and I'll conclude my testimony by
25 offering some observations... [interpose]

2 CHAIRPERSON GENNARO: Okay.

3 STEVEN CAPUTO: and prospects based on
4 some studies that we're doing.

5 So moving on now to our Oversight portion
6 of the hearing on Local Law 43, as I just mentioned,
7 Local Law 43 of 2010 was really one of the
8 cornerstones of the City's effort to eliminate heavy
9 oil and transition to cleaner fuels like biodiesel.
10 I'm gonna describe that implementation in detail and
11 I just wanna provide a bit broader context of the
12 work... [interpose]

13 CHAIRPERSON GENNARO: Sure.

14 STEVEN CAPUTO: that's been done in
15 collaboration with the Council.

16 So to support that PlaNYC goal of
17 achieving the cleanest air quality of any major city
18 in the country, we first realized that we needed to
19 really figure out what is happening on the ground; at
20 that point, in 2007 we only had about 10 state-
21 operated monitors for air quality in the City; they
22 were located on top of rooftops, not where people
23 actually breathe air, so our Department of Health
24 worked to develop a really innovative module, it's
25 about the size of a briefcase; it's located on

2 lampposts across the City, a 100 different sites, and
3 it measures EPA criteria, air pollutants, airborne
4 toxins, temperature and other things and it's kind of
5 an example of what you can do in a city when you've
6 got smart researchers... [interpose]

7 CHAIRPERSON GENNARO: Right.

8 STEVEN CAPUTO: and scientists and the
9 first major finding of that system, which is called
10 the New York City Community Air Survey, was that
11 during the wintertime air monitoring period we saw
12 the significant impact of the use of heavy heating
13 oil in buildings. PM 2.5 pollution levels were 30
14 percent higher on average in parts of the City where
15 are were high densities of buildings that used heavy
16 fuel oil and it came as a surprise to many New
17 Yorkers that some of the City's most affluent
18 neighborhoods, like the Upper East Side of Manhattan
19 had some of the worst air quality in the wintertime.

20 So based on this rigorous scientific
21 assessment the City then worked for the next year-
22 and-a-half with a broad spectrum of stakeholders and
23 elected officials, including Chairman Gennaro and
24 members of this Committee, to evaluate policy options
25 and create a multi-front regulatory strategy.

2 And this strategy consisted of a few
3 parts, one of which was the Department of
4 Environmental Protection's rules which would phase
5 out No. 6 heating oil by 2015 and they were paired by
6 bills at the City and State level to desulfurize
7 No. 4 and No. 2 oil.

8 Although the DEP regulations allowed an
9 interim step, they allowed buildings to convert from
10 No. 6 oil to No. 4 oil on the way to cleanest fuels,
11 which ultimately weren't required until 2030; thanks
12 to Local Law 43 the interim step alone would reduce
13 sulfur content and associated emissions by almost 50
14 percent; that's because Local Law 43, in addition to
15 requiring 2 percent biodiesel set a ceiling of 1500
16 parts per million for sulfur content in No. 4 oil,
17 which is down from 3,000 parts per million.

18 And at the same time the City and the
19 Council worked with legislators in Albany to ensure
20 passage of a law to reduce the sulfur content in No.
21 2 oil by 99 percent. So we really had kind of three
22 rules working together.

23 Before going on I'd like to point out
24 that these regulations and laws would not have been
25 possible without the strong support of the New York

1 Oil Heating Association, which I understand will be
2 represented today by its CEO, John Maniscalco.

3
4 Despite opposition of some of its members
5 who were in the business of distributing heavier
6 forms of heating oil, NYOHA exerted thoughtful and
7 forward-looking leadership to transform the industry.
8 And today, thanks to the laws that desulfurized
9 heating oil and require biodiesel, New York City now
10 has the cleanest No. 2 heating oil in the country;
11 the industry now refers to it as Bioheat and Clean 2.
12 So on behalf of the Administration I'd like to thank
13 John and the members of NYOHA for their efforts...

14 [interpose]

15 CHAIRPERSON GENNARO: And if I could, I
16 just wanna, you know jump in to add my own you know
17 thanks; I've been working with John. I've worked
18 with you and your members for a long and you know to
19 get the industry to move forward in a very
20 progressive way to you know see the benefits that you
21 know clean fuel oil had to offer and to you know make
22 that happen was just a wonderful piece of leadership
23 on your part and I just wanted that on the record as
24 well, so I wanted to, you know join my colleague in
25 thanking you for that, 'cause we wouldn't be here

1 today without that leadership, so thank you John, you
2 bet.

3
4 STEVEN CAPUTO: So together these
5 regulations and laws would save thousands of lives
6 over the next decade, but we felt that this wasn't
7 enough to achieve rapid public health benefits, so
8 for this reason in April of 2011 Mayor Bloomberg
9 launched the NYC Clean Heat program in partnership
10 with the Environmental Defense Fund to provide
11 information, technical assistance and financing to
12 building owners.

13 The Mayor also set at that time a goal of
14 reducing fine particulate matter, PM 2.5 emissions,
15 from heavy oil use by 50 percent by 2014, which is an
16 incredibly ambitious goal... [interpose]

17 CHAIRPERSON GENNARO: And also, when you
18 say from heavy, you know you mean six; that's what
19 you mean... [crosstalk]

20 STEVEN CAPUTO: Yeah, six and four oil...
21 [crosstalk]

22 CHAIRPERSON GENNARO: Right. Okay.

23 STEVEN CAPUTO: we consider that...

24 CHAIRPERSON GENNARO: Alright.

2 STEVEN CAPUTO: So... and I'll kind of get
3 into some of the results of that program in a minute.

4 Just a bit of background on the program
5 itself; it was designed to take a sales force
6 approach to creating change in the marketplace; the
7 City hired a team of over a dozen energy and building
8 professionals to cultivate relationships with
9 buildings, provide technical assistance, work with
10 utilities, work with fuel providers and the entire
11 contracting workforce. Within six months of the
12 program over a 1,000 buildings were in contact with
13 it and each one of them was treated as a client of
14 the program.

15 Although converting to cleaner fuels can
16 often save money, especially when paired with energy
17 efficiency, many owners were having trouble accessing
18 upfront capital to undertake conversion, so we also
19 took steps to overcome this problem; in June of 2012
20 Mayor Bloomberg announced a partnership with the New
21 York City Energy Efficiency Corporation and private
22 lenders, which led to offering of up to a \$100
23 million in financing and that was really focused on
24 lower and moderate income buildings. Provided some
25 detail in my testimony about the individual financing

2 programs that were created with a number of entities,
3 one of which includes the New York City Housing
4 Development Corporation really focused on affordable
5 housing.

6 So the Clean Heat program's innovative
7 combination of regulations and resources has paid
8 off. Since the start of the program in 2011 over
9 2700 buildings have converted to cleaner fuels and
10 notably, more than 75 percent of those conversions
11 occurred to one of the cleanest fuels and that
12 included No. 2 oil, biodiesel or natural gas and that
13 was ahead of the regulated timeline and those
14 buildings didn't convert to No. 4 oil, they went all
15 the way to the cleanest oils and that was really one
16 of the goals.

17 These conversions have also led to a
18 reduction of fine particulate matter of 270 tons,
19 which is 73 percent of the goal of the program; we
20 actually think that early this spring we'll reach
21 that 50 percent reduction goal.

22 So as I mentioned before, these
23 conversions and transition to cleaner oils have led
24 to really dramatic improvements on the ground air
25 quality and public health benefits. So the New York

2 Community Air Survey now has been running for five
3 years and the Mayor just announced that over that
4 period, during the wintertime, sulfur dioxide levels
5 have dropped by 69 percent, nickel levels have
6 dropped by 35 percent and year round fine particulate
7 matter has dropped by 23 percent.

8 These air quality improvements have
9 already been estimated to save 780 lives annually and
10 prevent nearly 2,000 hospitalizations and ER visits
11 for respiratory and cardiovascular conditions.

12 CHAIRPERSON GENNARO: Good for you. Good
13 for you.

14 STEVEN CAPUTO: Thanks. Right now that's
15 about a 25 percent reduction in health incidents and
16 deaths and we think that that number will only grow
17 over time as more and more buildings convert and
18 likewise.

19 So we've also significantly advanced
20 towards that goal of the cleanest air quality, so
21 during... from 2005 to 2007 we were ranked 7th out of 9
22 cities that had over a million people and today we're
23 ranked 4th place, so we're moved up a lot and we've
24 outpaced all the other cities in improving our air
25 quality.

2 So the Clean Heat program and its kind of
3 regulatory background has become a model for solving
4 major urban health problems and it's now being
5 examined by other municipalities, including Boston
6 and some international cities that are experiencing
7 major air quality challenges.

8 We also wanna note that earlier this year
9 the program was awarded the 2013 Public Service
10 Innovation Prize, the Office of Long-term Planning
11 was formally awarded that prize, but we really think
12 that that honor should be shared with the Council and
13 with organizations like NYOHA and others that really..
14 [interpose]

15 CHAIRPERSON GENNARO: Thank you.

16 STEVEN CAPUTO: advocated for this.

17 So now onto the implementation of Local
18 Law 43 of 2010.

19 We are pleased to report that not only
20 has the heating oil industry complied with Local Law
21 43, but also in many cases oil suppliers have
22 exceeded the 2 percent biodiesel minimum and many of
23 them are delivering b-5 or even higher
24 concentrations. This outcome may stem in part from
25 the fact that New York State is offering an incentive

2 of one cent for every gallon of biodiesel used in
3 heating oil up to a maximum of 20 cents per gallon.
4 We think this is also a reflection of the marketplace
5 acceptance of cleaner fuels and the ease of
6 implementing biodiesel in buildings at a b-2 level.

7 It's also notable that this occurred...
8 well I'll get to that in a second.

9 Thanks to the reporting requirements
10 contained in Local Law 43 we now have a much better
11 idea of heating oil and biodiesel consumption in New
12 York City. Over 90 percent of licensed oil suppliers
13 in the City complied with the reporting requirements
14 and most provided delivery dated of back to 2007,
15 which the bill did not require; we asked for it
16 voluntarily and we used that data to kind of refine
17 our greenhouse gas inventory.

18 So from that information we were able to
19 better calculate the amount of consumption in the
20 city and just to give you an idea of how rapid the
21 growth in biodiesel has become; in 2009 only 1.6
22 million gallons of biodiesel, which in this instance
23 we're talking about b-100, just pure biodiesel, was
24 consumed for heating citywide and that's less than 10
25 percent of our total oil consumption.

2 In 2012 we had almost 45 million gallons
3 consumed, which is 2.5 percent of our heating oil;
4 again, higher than 2 percent and this represented a
5 27-fold increase, which is much more than we
6 expected, given that this bill really only came into
7 effect in late 2012.

8 CHAIRPERSON GENNARO: Right, so was just...
9 [crosstalk]

10 STEVEN CAPUTO: It was just getting
11 started, yeah.

12 CHAIRPERSON GENNARO: it was one year
13 ago; it was like October 2012 when it kicked in...
14 [crosstalk]

15 STEVEN CAPUTO: That's right. That's
16 right. So our estimates are that the use of
17 biodiesel contributed to a reduction of over 120,000
18 metric tons of CO2 or about a quarter of a percent of
19 the City's total 2012 emissions and that number may
20 seem small, a quarter of a percent, but it's really a
21 big... for one action in one year... [interpose]

22 CHAIRPERSON GENNARO: Right.

23 STEVEN CAPUTO: it's a really big
24 improvement.
25

2 So implementation of Local Law 43 was not
3 without its glitches, however the main challenges
4 experienced stemmed from the interruptions that
5 occurred to the liquid fuel supply chain following
6 Hurricane Sandy.

7 As the City documented in its Rebuilding
8 and Resiliency plan, A Stronger, More Resilient New
9 York, which the Mayor issued this past June,
10 disruptions occurred at nearly every level of the
11 fuel supply chain, producing all fuel flow into the
12 New York and metropolitan region. Most of the
13 infrastructure affected was located in New Jersey,
14 which made it even harder and it was a combination of
15 extended power outages, direct damage and for a time
16 it literally dried up New York City's fuel supply.

17 Throughout this period the City worked
18 day and night to assist in the recovery fuel system
19 and to ensure that fuel was available for critical
20 fleets and facilities; Keith Kerman, to my right,
21 oversaw these efforts for the City and he can, if you
22 have questions, can answer those, but he did a really
23 admirable job and the NYOHA also went above and
24 beyond the call of duty to help out during that
25 period.

2 As a result of the fuel oil supply
3 disruption, Commissioner Strickland of DEP issued
4 temporary waivers of the 2 percent biodiesel and the
5 1500 parts per million sulfur requirement that were
6 required under Local Law 43. Those waivers began on
7 November 2nd of 2012, just after the storm and they
8 were conducted in tandem with the State of New York,
9 which waived its 15 parts per million sulfur limit on
10 No. 2 oil. Both the City and the State were
11 extensively consulted with infrastructure operators
12 that experienced damage, as well as the Departments
13 of Energy and Environmental Protection, the Coast
14 Guard, Department of Defense, and the Energy
15 Information Agency. We kind of made a collective
16 determination that suspending the fuel standards and
17 formulation requirements would facilitate emergency
18 fuel flows into the City.

19 So waivers of Local Law 43 were in effect
20 until January 18th, at which time normal operations
21 resumed and a forthcoming report from the
22 Commissioner will provide additional details.

23 CHAIRPERSON GENNARO: Yeah and at that
24 time I got a call from Carter Strickland and we
25 talked about everything that was going on and it's

1 really... I mean, you know he has the power to do what
2 he has to do, but he was very gracious in speaking to
3 me about it and you know, I told him to certainly do
4 what he had to do, but he was very gracious about
5 looping me in and letting me know what was going on
6 and he was gonna limit it and work and it all... yeah,
7 it had to be done.

9 STEVEN CAPUTO: Great. The Commissioner
10 also approved two additional waivers which allowed
11 for alternate sources of renewable liquid fuels to
12 comply under the biodiesel mandate. So in September
13 or 2012 and February of 2013 the Commissioner
14 approved the substitution of biodiesel for renewable
15 biodiesel, which sounds like the same thing; it's a
16 slightly different composition, by two major oil
17 refiners and suppliers in the region. Both of these
18 businesses provided testing data that complied with
19 the EPA's registration process that demonstrated that
20 blends of this renewal diesel and No. 2 fuel oil met
21 the same ASTM standards as required by Local Law 43.

22 So these actions suggest, as well as our
23 independent research that we'll come out with later
24 this year, suggests that it may be worth considering
25 investigating a broader definition of eligible fuels

1 under Local Law 43 or future legislation, because
2 some other fuels, like renewable diesel, offer
3 comparable environmental benefits with a slight
4 different composition.
5

6 [background comments]

7 CHAIRPERSON GENNARO: Let me just stop
8 there for a second; I'm kind of... normally I wait for
9 people to read a statement before I jump in, but I
10 just can't help myself.

11 So you talk in the last paragraph that it
12 may be worth investigating a broader definition of
13 eligible fuels under Local Law 43, but the
14 Commissioner... earlier in that paragraph you indicated
15 that he approved two... [interpose]

16 STEVEN CAPUTO: Yeah.

17 CHAIRPERSON GENNARO: new waivers which
18 allow for other sources of renewable fuels to quality
19 as compliant... [interpose]

20 STEVEN CAPUTO: Uhm-hm.

21 CHAIRPERSON GENNARO: under the biodiesel
22 mandate. Now just speaking legally or whatever and
23 I'm making a parade of my lack of detailed
24 understanding about what powers the Commissioner has
25 pursuant to Local Law 43 to do waivers; he did the

1
2 waivers which allowed for other resources of
3 renewable fuels to qualify as compliant on like a
4 temporary basis, on a waiver basis or does he have a...
5 [interpose]

6 STEVEN CAPUTO: On a...

7 CHAIRPERSON GENNARO: does he have the
8 ability to do it... because it would seem that he
9 doesn't have the ability to do it in perpetuity,
10 otherwise you wouldn't be talkin' about broadening
11 the definition of eligible fuels; am I reading that
12 right? Pete, take care... [crosstalk]

13 STEVEN CAPUTO: I... I would... I would... I'll
14 defer to... to Gerry Kelpin, who can provide details,
15 but... [interpose]

16 CHAIRPERSON GENNARO: Right.

17 STEVEN CAPUTO: my understanding was that
18 the Commissioner had discretion provided that the
19 environmental... that the kind of... it met the same
20 criteria; is that... [crosstalk]

21 CHAIRPERSON GENNARO: And that was... Why
22 don't we just have Gerry speak to that point, 'cause
23 as we move on with other testimony I'm gonna kinda
24 like lose this stream of consciousness here and
25

2 forget to go back to it and so... if you'd just
3 identify yourself for the record, Gerry.

4 GERRY KELPIN: Gerry Kelpin, New York
5 City Department of Environmental Protection.

6 The reason that we would wanna broaden
7 this is that in order to comply with the provision
8 that was written into 43, the various entities need
9 to do a fair amount of testing and provide data to
10 show that it's equivalent to the biodiesel...

11 [interpose]

12 CHAIRPERSON GENNARO: Right. And so let
13 me just... stop for a second. And so Local Law 43 had
14 a provision that allowed the Commissioner to advance
15 fuels that provided the same air quality benefits or
16 whatever, right...? [interpose]

17 GERRY KELPIN: Right. Yes.

18 CHAIRPERSON GENNARO: And so in order for
19 him to do that he had to jump them through hoops and
20 then had to show certain standards or whatever; they
21 had to meet a certain spec or whatever it is, right?

22 GERRY KELPIN: That's a good sign.

23 CHAIRPERSON GENNARO: And in layman's
24 talk; this is... and he has ability to do that based on

2 the power given to him in Local Law 43, which gave
3 him that authority to do that, right... [interpose]

4 GERRY KELPIN: Yes.

5 CHAIRPERSON GENNARO: is that... is that
6 fair so far?

7 STEVEN CAPUTO: Uhm-hm.

8 GERRY KELPIN: Yes.

9 CHAIRPERSON GENNARO: But by... but the
10 language that that says it be worth investigating a
11 broader definition of eligible fuels, that would make
12 it easier for the Commissioner to do that, less...

13 GERRY KELPIN: If we broaden the
14 definition of what a renewable fuel is, then there
15 wouldn't be a need to actually issue separate
16 waivers; we would be including other forms of sort of
17 bio-derived fuels...

18 CHAIRPERSON GENNARO: Right.

19 GERRY KELPIN: right off the bat. And
20 the industry and the science has... [interpose]

21 CHAIRPERSON GENNARO: Oh... oh, because now
22 he has to do it on like a waiver basis...

23 GERRY KELPIN: Correct.
24
25

2 CHAIRPERSON GENNARO: and so these other
3 fuels could just like qualify and sort of that would
4 be that, right?

5 GERRY KELPIN: Correct.

6 CHAIRPERSON GENNARO: Okay.

7 GERRY KELPIN: There's... some additional
8 testing has been done that makes... [interpose]

9 CHAIRPERSON GENNARO: I just wanna... for
10 the fuel guys that are gonna testify, like remind me
11 to ask you about this, okay, because I'm sure this is
12 of interest to you.

13 GERRY KELPIN: So that... that is a goal
14 that... [interpose]

15 CHAIRPERSON GENNARO: And remind me that...
16 of this too, alright. Go ahead.

17 GERRY KELPIN: that we could broaden the
18 definition to include fuels that have been processed
19 in a couple of different ways; additional testing has
20 now been completed and we would see them to be
21 essentially equivalent to the biodiesel and the... the
22 process that... [interpose]

23 CHAIRPERSON GENNARO: Right.

24 GERRY KELPIN: the testing process that
25 is available for biodiesel... [interpose]

2 CHAIRPERSON GENNARO: Right. But I guess
3 like the broader question, which, you know, I don't
4 wanna belabor now is... you know you have a product
5 that when you burn it, produces, you know the same
6 air quality benefits, but I'm thinking of, you know
7 sort of like the whole, you know, carbon footprint
8 sort of production lifecycle of that... of that
9 substitute; does that in any way negate... it's just
10 like a bigger question to me, that's all; I'm just...
11 [interpose]

12 GERRY KELPIN: No, we agree and uh...

13 CHAIRPERSON GENNARO: and I don't know
14 the... [interpose]

15 GERRY KELPIN: Well the... in...

16 CHAIRPERSON GENNARO: I don't know
17 anything about that, so.

18 GERRY KELPIN: In terms of how a new
19 definition would have to be crafted, those will be
20 some of the issues that would be hammered out to
21 ensure that whatever universe this new definition
22 covered was equivalent in terms of the various...
23 [interpose]

24 CHAIRPERSON GENNARO: You know, like kind
25 of the whole lifecycle.

2 GERRY KELPIN: issues that we have,
3 greenhouse gas lifecycle... [interpose]

4 CHAIRPERSON GENNARO: Yeah. Right. Yep.

5 GERRY KELPIN: you know, from door to
6 door type... [interpose]

7 CHAIRPERSON GENNARO: Okay.

8 GERRY KELPIN: you know emissions kind
9 of... [interpose]

10 CHAIRPERSON GENNARO: But... but... you know,
11 but right now the Commissioner, you know has the
12 ability to do this on a... [interpose]

13 GERRY KELPIN: A case by case. Yes.

14 CHAIRPERSON GENNARO: waiver basis and...
15 and... and he can... [interpose]

16 GERRY KELPIN: And we did have... it is... it
17 is in... for the duration, although... [interpose]

18 CHAIRPERSON GENNARO: Pardon? What was
19 that?

20 GERRY KELPIN: The... the waivers are not
21 time limited, but we did have a caveat... some caveat
22 language which I don't remember off the bat in terms
23 of the universe that this waiver was available for.
24 I'm gonna ask [interpose]...

25 CHAIRPERSON GENNARO: Okay, yeah.

2 GERRY KELPIN: just to send it to me and
3 I'll... I'll clarify that... [crosstalk]

4 CHAIRPERSON GENNARO: So the waiver may
5 or may not have a sunset, right?

6 GERRY KELPIN: It doesn't have a sunset
7 time; it had... it was a set of building criteria that
8 we had factored into the waiver... [crosstalk]

9 CHAIRPERSON GENNARO: Okay; this is an
10 interesting area of inquiry, you know. Okay, but got
11 it. Got it. Okay. But... continue; I think I
12 interrupted the proceedings... [crosstalk]

13 STEVEN CAPUTO: Well just to... no, no;
14 that's fine; I mean just to... just to add a bit more
15 detail that should've been included here that the
16 Federal Government's renewable fuel standard, the
17 RFS, has... over the past few years has broadened the
18 definition of liquid fuels that qualify and...
19 [interpose]

20 CHAIRPERSON GENNARO: Right.

21 GERRY KELPIN: it's... you know, it's
22 included what they call renewable diesel, which is
23 also from agricultural and/or waste... [interpose]

24 CHAIRPERSON GENNARO: Right.

2 GERRY KELPIN: stuff and has essentially
3 the same sort of environmental, including a
4 greenhouse gas footprint... [interpose]

5 CHAIRPERSON GENNARO: Okay.

6 GERRY KELPIN: so the study that we're
7 working on will get into that and we'd be happy to
8 brief you offline... [crosstalk]

9 CHAIRPERSON GENNARO: Right. Right.

10 GERRY KELPIN: to... to kinda talk more
11 about it and see what you think... [interpose]

12 CHAIRPERSON GENNARO: Okay.

13 GERRY KELPIN: but part of it... part of
14 the effort is to kind of continue to recognize the
15 advancements in the industry and also comply with
16 like where the Federal Government has gone...
17 [interpose]

18 CHAIRPERSON GENNARO: Right.

19 GERRY KELPIN: which kind of sets the
20 overall incentive environment.

21 CHAIRPERSON GENNARO: Okay.

22 GERRY KELPIN: So... [interpose]

23 CHAIRPERSON GENNARO: Do people get the
24 tax credit for using that other stuff?

25 GERRY KELPIN: I think... [interpose]

2 CHAIRPERSON GENNARO: The State tax
3 credit?

4 GERRY KELPIN: I have to... I... I... I... I have
5 to make sure of that; I believe... [interpose]'

6 CHAIRPERSON GENNARO: I got 'em...
7 [crosstalk]

8 STEVEN CAPUTO: Yeah.

9 CHAIRPERSON GENNARO: I got 'em on that.
10 See, I'm sayin' I got 'em... [crosstalk]

11 STEVEN CAPUTO: We'll get back to you
12 with the answer on that.

13 CHAIRPERSON GENNARO: I'm a sharp guy, I...
14 I got you on that one.

15 [background comment]

16 CHAIRPERSON GENNARO: Yeah.

17 STEVEN CAPUTO: Uh...

18 CHAIRPERSON GENNARO: I've been doin'

19 this for 12 years, see, you know. Now I'm just
20 showboatin', just forget it. Uh just... you know...

21 [interpose]

22 STEVEN CAPUTO: Well...

23 CHAIRPERSON GENNARO: the movie people
24 are here, you know.

25 [laughter]

2 CHAIRPERSON GENNARO: Oh, I've been in a
3 couple of movies; have I mentioned that? I've been
4 in two environmental documentaries and I forget...

5 [laughter]

6 CHAIRPERSON GENNARO: Sundance Film
7 Festival, uh no, no just...

8 STEVEN CAPUTO: Right.

9 CHAIRPERSON GENNARO: Both of them won
10 documentary awards; one was nomin... you know one was
11 nominated for an Academy Award; you might've heard of
12 that process, the Academy Award thing you know, so.
13 Yeah, yeah. Okay; where was I...? [crosstalk]

14 STEVEN CAPUTO: Congratulations.

15 CHAIRPERSON GENNARO: Okay, yeah.

16 [laughter]

17 CHAIRPERSON GENNARO: Yeah, yeah. Okay.

18 STEVEN CAPUTO: Intro... Okay, so now I'd
19 like to move onto Intro... [interpose]

20 CHAIRPERSON GENNARO: Yeah.

21 STEVEN CAPUTO: 1047. So Intro 1047
22 would require all city-owned buildings to utilize b-5
23 and also to conduct a pilot of b-10 in a sample of
24 buildings, so all city-owned buildings currently use
25 2 percent biodiesel in compliance with Local Law 43

2 and some use even higher quantities. So for this
3 reason we support the b-5 requirement in Intro 1047
4 and believe that it will help advance the City's...
5 will give the City a bit of a push and help advance
6 our greenhouse gas reduction progress towards that 20
7 by 17 goal. [interpose]

8 CHAIRPERSON GENNARO: 'Kay. Sergeant, I
9 just wanna ask you to close the outside door; I think
10 we're getting some chitchat from the hallway; I just
11 wanna...

12 STEVEN CAPUTO: We also think that this...
13 this bill, the b-5 requirement really closely aligns
14 with the main thrust of the City's greenhouse gas
15 reduction efforts, which are energy used in buildings
16 and that's where this will mostly... [interpose]

17 CHAIRPERSON GENNARO: Uhm-hm.

18 STEVEN CAPUTO: come into force.

19 The New York City Parks Department has
20 run a more aggressive bioheat program for many years
21 and you can ask Keith about all the gory details of
22 that. Parks began using bioheat in its buildings in
23 heating oil in Fiscal Year 2009; they started at the
24 5, but they had relatively good experiences and
25 expanded to entirely using b-5 or b-20 and I think in

2 more than half the buildings they use b-20. So
3 Parks' use of higher blends of biodiesel in buildings
4 was a success; the Department did experience some
5 growing pains, which included clogging fuel pipes,
6 increased needs for maintenance and filter cleanings
7 early on, but those problems have largely been
8 mitigated over time.

9 So in general, the experience of the
10 Parks Department is evidence that using higher blends
11 of biodiesel is in general viable; however, the types
12 of buildings operated by the Parks Department don't
13 really represent the full complexity of real estate
14 in the City's portfolio and we also know that there's
15 less experience among boiler operators and equipment
16 suppliers in using higher blends of biodiesel in
17 larger buildings, like the ones that make up the
18 majority of this city's portfolio... [interpose]

19 CHAIRPERSON GENNARO: Right.

20 STEVEN CAPUTO: So that's not to say we
21 don't support the mandate; what we're proposing is
22 that the b-10 pilot that's contemplated in the bill
23 follow the same model as the wintertime b-20 pilot
24 for fleets and that it involve up to 5 percent of
25 city buildings. We think that that 5 percent

2 threshold is the right number; it will allow DCAS to
3 work with its agency partners... [interpose]

4 CHAIRPERSON GENNARO: What is it now?
5 What is it now; what is... [crosstalk]

6 STEVEN CAPUTO: It's 10 percent now and I
7 think... [crosstalk]

8 CHAIRPERSON GENNARO: It's written as 10
9 percent?

10 STEVEN CAPUTO: I think the fleets bill I
11 think started around the same level and we kind of
12 discussed... [interpose]

13 CHAIRPERSON GENNARO: Right. So right
14 now 1047 would call for a pilot of 10 percent of city
15 buildings, right?

16 STEVEN CAPUTO: Yeah. Yeah. We think 5
17 percent is a more appropriate target; it will allow
18 us to really closely target the best eligible
19 building systems; you know, make sure we're not
20 impacting critical facilities, give us more time to
21 train all the maintenance staff...

22 CHAIRPERSON GENNARO: Right.

23 STEVEN CAPUTO: and more closely monitor
24 the impacts; we think who has the best chance to
25

1
2 succeed and we hope that we can work with the Council
3 to modify... [[interpose]

4 CHAIRPERSON GENNARO: Yeah.

5 STEVEN CAPUTO: and refine that. And
6 with that... with that caveat I think the City would
7 offer its full support of Intro 1047.

8 So now onto Intro 705. As I hope we've
9 made clear in this testimony, the City... [interpose]

10 CHAIRPERSON GENNARO: and I just wanna...

11 STEVEN CAPUTO: Uhm-hm.

12 CHAIRPERSON GENNARO: just jump in for a
13 second just to make announcement that we've been
14 joined by Council Member Crowley and Council Member
15 Levin; we're pleased to have them with us here today
16 and you missed some of the fun; you should've been
17 here a little earlier; never mind, but it's on film;
18 you'll be able to see it.

19 STEVEN CAPUTO: So on to Intro 705...

20 [crosstalk]

21 CHAIRPERSON GENNARO: Forgive me.

22 Forgive me.

23 STEVEN CAPUTO: Yeah, it's okay. As I
24 hope we've made clear in the testimony, we really
25 enthusiastically support the expansion of biodiesel

2 use in the transportation and building sectors;
3 however, we really wanna emphasize that this must be
4 done in a comprehensive and coordinated fashion which
5 has been done to date and that we not single out
6 particular industries and subsectors. So for
7 individual businesses that utilize diesel fuel in
8 generators as opposed to buildings, we think that
9 ensuring adequate access to fuel supply that is not
10 burdensome to their current course of operations will
11 be key.

12 We're concerned about fuel accessibility
13 for the film, media and street fair industries if
14 they were required to use b-5 in the absence of
15 broader changes in the marketplace that made b-5
16 widely available.

17 Both of these industries are relatively
18 fragmented, small scale, involve numerous parties;
19 their base is spread throughout the region, they
20 purchase fuel in small scales at different
21 marketplaces and we're concerned that they would not
22 have adequate access to biodiesel.

23 We also have concerns about the technical
24 challenges that may occur from mandating use of
25 biodiesel in generators, which unlike diesel-powered

2 automotive engines and boiler equipment are not
3 typically rated for biodiesel use, even in lower
4 concentrations.

5 We would expect that b-5 wouldn't
6 necessarily cause harm to newer generators and some
7 of them may even be... you know, may be able to use it
8 by warranty, but we think that b-5 could void
9 existing warranties and it could also develop
10 operational disruptions, which could occur in the
11 middle of filming. And if... I think most importantly,
12 if these challenges turned out to come true as a
13 result of passing the bill, it could undermine the
14 broader objectives of expanding biodiesel use in the
15 larger marketplace and could lead to opposition to
16 future measures and that would be a real... that's what
17 we wanna prevent.

18 CHAIRPERSON GENNARO: Uhm-hm. Uhm-hm.

19 STEVEN CAPUTO: We also... you know, it's
20 important to know that we have specific concerns
21 about biodiesel in the film and media industry, which
22 truly is a bedrock of our economy; just a few... you
23 know, a few highlights of how important this industry
24 is; it employs over 130,000 New Yorkers, contributes
25 over \$7 billion to our economy, roughly 4,000

2 businesses are within this ecosystem of activity;
3 we've also seen a huge amount of growth in the film
4 industry in New York City, 250 feature films were
5 permitted by the City, I think last year alone, and
6 then in the 2012-13 heat... television season, not
7 heating season, 27 episodic film series were filmed
8 in the City and that's four times as many as were
9 filmed 10 years ago, so it really is, you know, kind
10 of a success story.

11 While these important contributions to
12 our city's economy, with those in mind, we would
13 caution against requirements that single out this
14 industry and could present operational and financial
15 burdens for the broader marketplaces really come to
16 grips with 5.

17 So in conclusion, we'd like to suggest
18 that in order to expand the use of biodiesel in the
19 broader marketplace the Council consider building on
20 the experiences of city government in using b-5 for
21 fleets and buildings over the coming years. Doing so
22 would allow the City to first demonstrate the
23 viability of using b-5 and through its pilots, higher
24 concentrations of biodiesel.

2 As we've mentioned previously, the Office
3 of Long-term Planning is close to finalizing a study
4 on the biodiesel marketplace in New York City and
5 we've seen some encouraging findings in that study
6 and I'm not gonna go in too much detail, but we'd be
7 happy to have a follow-up conversation about it...

8 CHAIRPERSON GENNARO: Uhm-hm.

9 STEVEN CAPUTO: But in a nutshell, that
10 study will show that existing biodiesel plants in the
11 region could supply the City with significant amounts
12 of biodiesel; there's excess capacity within those
13 plants and that the opening of the United Metro
14 biodiesel processing facility in Greenpoint,
15 Brooklyn, which I think will happen within a year,
16 will also provide a substantial new local supply
17 source.

18 The study that we're doing will also show
19 that expanding the use of biodiesel can really help
20 our greenhouse gas reduction goals; continue to
21 improve air quality. It also evaluates that the
22 number of barriers that exist to using biodiesel; we
23 found that none of those barriers insurmountable and
24 we would look forward to working with the Council to
25 address them going forward. So that concludes our

2 testimony and thanks for the opportunity and we'll be
3 happy to answer questions... [interpose]

4 CHAIRPERSON GENNARO: Okay. Thank Mr.
5 Caputo for your comprehensive testimony which
6 included, you know very complimentary statements to
7 me and the Council and members and I certainly
8 appreciate that.

9 I'm just gonna... I made some notes on your
10 statement; I'm just gonna go through that. Let me
11 start at the back and kinda like work forward.

12 Now one of the things that's not, you
13 know really the subject of the hearing, but kinda
14 ties into the Oversight concept is, you know how well
15 the b-2 mandate has worked in the City and whether or
16 not it makes any sense at this time to contemplate
17 some timetable where we might increase the City as a
18 whole to b-5 and of course the bill we're talking
19 about today would be for city government use, but I
20 wanted your thoughts on whether or not the, you know
21 time was right to take the b-2 mandate for the City
22 as a whole and lay out some kind of timeline where we
23 might up it to, you know b-5 or more; it's my
24 understanding that in the meeting I had not that long
25 ago with you know Seragay [phonetic], there was a

2 lot... I guess that's what you're talking about with
3 regard to the study of biodiesel and it's avail... but
4 I think the Office of Long-term Planning was looking
5 a you know what the City would look like if it was...
6 for heating oil, b-5, b-10; b-20 and I just want your
7 thoughts on whether or not this... it might be
8 something that the Administration... again, you're one
9 guy; you don't kinda, you know speak for the... you
10 know for the whole administration like in its
11 entirety, but what the Office of Long-term Planning
12 and Sustainability might... whether or not it's... the
13 time is right now to set the City on some sort of
14 legally mandated path towards higher concentrations
15 of bio in heating oil. Long question; I'm sorry.

16 STEVEN CAPUTO: Yeah. No, it's a good
17 question. You know, we've... obviously we're spending
18 a lot of time looking at that question and really
19 trying to understand what the marketplace looks like
20 and what the barriers are, so we're... you know I can't
21 say on behalf of the Administration our position on
22 that; I think it would depend on the timeframe; how
23 the bill is structured...

24 CHAIRPERSON GENNARO: Right.

2 STEVEN CAPUTO: but I can say that, you
3 know we think that go... you know, going from b-2 to b-
4 5 is achievable and... [interpose]

5 CHAIRPERSON GENNARO: For city government
6 buildings?

7 STEVEN CAPUTO: Well we're gonna be doing
8 it for city government buildings...

9 CHAIRPERSON GENNARO: Right.

10 STEVEN CAPUTO: I think that's gonna give
11 us more confidence... [interpose]

12 CHAIRPERSON GENNARO: Right.

13 STEVEN CAPUTO: and it will broaden the
14 supply chain; it will bring more supply to market
15 because we're gonna be demanding it and I think we're
16 gonna be working out some of the kinks, so I think
17 with some more time it would certainly be worth
18 considering.

19 CHAIRPERSON GENNARO: Well, being that
20 we're kinda like running out'a time, I'm just... be
21 making a comment to staff here and as well as the
22 Administration and the bill that takes the b-5 for
23 the City buildings is 1047, right, Samara?

24 COMMITTEE COUNSEL: Yeah.
25

2 CHAIRPERSON GENNARO: Okay. And so, you
3 know, what if we were to... again, this is... again, I
4 mean this is probably the kind of conversation...
5 again, we only have 77 days and we've gotta like, you
6 know, get stuff done. What if we put you know
7 language in the bill... this is kind of too, Samara, so
8 to the Administration, what if we put language in the
9 bill that said okay, we're gonna do b-5 for all you
10 know city government buildings, we're gonna do the
11 pilot based on whatever we figure out and to
12 actually, you know mandate that the you know Office
13 of Long-term Planning or whomever you know within x
14 period of time do some study that requires a formal
15 recommendation on... you know, to the Council on
16 whether or not we should do that, so that way we
17 wouldn't be you know doing the mandate now, but we
18 would put language in that says that we're you know
19 calling upon you to make a formal recommendation on...
20 and we could figure out language to that effect that
21 would... that way you would be legally required to you
22 know make a formal recommendation to the Council over
23 the next year, 18 months or whatever, to increase... to
24 do a law that would require all heating oil in the
25 City to go to b-5 and then could ramp up or... you

1 know, whatever the study concluded; I don't wanna
2 tell you... [interpose]

3 STEVEN CAPUTO: Yeah. Yeah.

4 CHAIRPERSON GENNARO: So I think what I'm
5 hearing is that you know perhaps... perhaps the
6 Administration's not ready to go into the deep end of
7 the pool... [interpose]

8 STEVEN CAPUTO: Yeah.

9 CHAIRPERSON GENNARO: in terms of like
10 the City at large...

11 STEVEN CAPUTO: Yeah.

12 CHAIRPERSON GENNARO: doing b-5; is that
13 fair?

14 STEVEN CAPUTO: I think, you know seeing
15 how it plays out with the City government buildings
16 and fleets I think is... is... [interpose]

17 CHAIRPERSON GENNARO: Right.

18 STEVEN CAPUTO: a prudent course of
19 action; the... [interpose]

20 CHAIRPERSON GENNARO: But I think putting
21 language in the bill that sort of... [interpose]

22 STEVEN CAPUTO: Yeah.

23 CHAIRPERSON GENNARO: you know mandates
24 the Office of Long-term Planning to use all of the
25

1 information that is you know generated from the
2 implementation of b-5 in all city buildings and what
3 that does to the whole supply chain and what that
4 does to this that and the other thing and what that
5 does to the economics and... [interpose]

7 STEVEN CAPUTO: Yeah.

8 CHAIRPERSON GENNARO: you know, to figure
9 all that out and sort of you know mandate that we
10 need to know within a year or 18 months... [interpose]

11 STEVEN CAPUTO: Yeah.

12 CHAIRPERSON GENNARO: or whatever you
13 know timeframe that we agree upon, so it doesn't... it
14 doesn't... [interpose]

15 STEVEN CAPUTO: Sure. Yeah; I mean...

16 CHAIRPERSON GENNARO: it doesn't... it
17 doesn't lock you, but it just... it makes you do
18 something... [[interpose]

19 STEVEN CAPUTO: Sure.

20 CHAIRPERSON GENNARO: it makes like... it
21 calls for a full recommendation, which you would have
22 to... you know, which would have to be supportable.

23 STEVEN CAPUTO: Yeah. Well I mean not...
24 not... again, not... not being prepared to speak on
25 behalf of the Administration... [interpose]

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CHAIRPERSON GENNARO: Right.

STEVEN CAPUTO: and also not having consulted with lawyers here on the laws...

CHAIRPERSON GENNARO: Yeah, yeah, yeah, yeah, yeah.

STEVEN CAPUTO: I don't see any reason why we couldn't do that.

CHAIRPERSON GENNARO: Yeah, I mean I... I just think that it... we're... it's not a... it's not a bill that would create a mandate, but would mandate that, you know, studies be done that... [interpose]

STEVEN CAPUTO: Yeah.

CHAIRPERSON GENNARO: you know brainwaves be generated and... [interpose]

STEVEN CAPUTO: Okay.

CHAIRPERSON GENNARO: it would have to be like, you know defensible and...

STEVEN CAPUTO: Sure.

CHAIRPERSON GENNARO: and... and so that's what I'm thinking...

STEVEN CAPUTO: Okay. We'd be happy to talk... [interpose]

CHAIRPERSON GENNARO: Yeah.

STEVEN CAPUTO: talk after...

2 CHAIRPERSON GENNARO: And I'll talk to
3 you about the pilot; I mean...

4 STEVEN CAPUTO: Okay.

5 CHAIRPERSON GENNARO: you know, I... I...
6 we're friends, we... we're all on the same team here;
7 we do good things together you know and so... so let it
8 be noted that you know, Samara, we should talk about
9 the pilot; I wanna work with the Administration on
10 what makes sense for them in terms of pilot; do we
11 wanna do the b-5 in city buildings... I mean we've got...
12 I think we can do something in language that calls
13 upon, you know a formal recommendation, you know to
14 be made, just so... at least we get that done before
15 the end of the year and so there will be a formal
16 recommendation and so... so I like that.

17 And we already did the... you know, the
18 substitute fuel and all that and so, with regard to
19 the... to the recommendation... yeah, on... you don't
20 number the pages in this thing... third to the last
21 page, first paragraph, the actions suggest it may be
22 worth investigating a broader definition. Now, were
23 you guys gonna do that as part of... [interpose]

24

25

1 STEVEN CAPUTO: We can... Yeah, I think we
2 can make... we can offer some suggestions based on...
3 [interpose]

4 CHAIRPERSON GENNARO: Right.

5 STEVEN CAPUTO: the federal standard and...

6 CHAIRPERSON GENNARO: And you wanna put
7 that into 1047; that's what you wanna do?

8 STEVEN CAPUTO: We haven't... we haven't
9 discussed it for the City government bill per se, but
10 we can get back to you... [crosstalk]

11 CHAIRPERSON GENNARO: Yeah, you know,
12 'cause you... you know, you mention it in here...

13 [interpose]

14 STEVEN CAPUTO: Right.

15 CHAIRPERSON GENNARO: this is what you...
16 because right now we have the waiver thing which is...

17 [interpose]

18 STEVEN CAPUTO: Right.

19 CHAIRPERSON GENNARO: kind of, you know,
20 like you have the ability to do it now through the
21 waiver thing, right? Oh yeah, yeah and if you just
22 identify yourself for the record... [interpose]

23 KEITH KERMAN: Sure. Keith Kerman...

2 CHAIRPERSON GENNARO: No, it's this
3 thing. Is uh... was... do we have a button? Where's the
4 button on those things; it's on the stick? I've
5 never been a witness, so I... I have no idea...
6 [interpose]

7 KEITH KERMAN: Okay. Again, Keith
8 Kerman, Deputy Commissioner... [interpose]

9 CHAIRPERSON GENNARO: Yeah.

10 KEITH KERMAN: over at DCAS. In terms of
11 the City government pilot, the City's already
12 operating under a single contract that covers diesel
13 and biodiesel...

14 CHAIRPERSON GENNARO: Right.

15 KEITH KERMAN: So effectively we already
16 have a contract in place with a spec in place, so we
17 can implement the law as it is immediately and as a
18 practical matter we would have to change those specs
19 and rebid the contract to change the fuel as impacts
20 the law anyway, so as a practical matter we don't
21 have to answer that question about alternative,
22 acceptable forms of bio or related diesel right now,
23 'cause we have a contact in place that has specs that
24 require the diesel, so you... [interpose]

25 CHAIRPERSON GENNARO: Okay.

2 KEITH KERMAN: so we would have time and
3 we... we have a contract; we can implement this now; to
4 some extent we already are, a lot of the city
5 buildings actually did go to b-5, so we're well...
6 we're well... [interpose]

7 CHAIRPERSON GENNARO: Right. But I'm
8 talking about this investigating a broader definition
9 of eligible fuels under Local Law 43, whether it was
10 imperative to sort of get that done before the end of
11 the year or... you know, you guys brought it up, so.

12 STEVEN CAPUTO: Yeah. Well I think maybe
13 we can get back to base... you know, with a more
14 precise... [interpose]

15 CHAIRPERSON GENNARO: Yeah.

16 STEVEN CAPUTO: recommendation based on
17 the research... [crosstalk]

18 CHAIRPERSON GENNARO: Yeah and so it's a
19 matter of just, you know, checking with them and find
20 out, you know if that's... 'cause at this point it's
21 almost... so little time; whatever we don't... you know,
22 anything that holds things up is just...

23 STEVEN CAPUTO: Sure.

24 CHAIRPERSON GENNARO: would... would... could
25 just cause us not to get stuff done. And you know,

1 I'm just so impressed with the New York City Clean
2 Heat program; this is just like an editorial comment;
3 this is really, really terrific groundbreaking stuff
4 that the Administration has just done on its own and
5 figured out all this financing and all this... and this
6 is all, you know done from the executive side.

8 Is there... there's no need to legislate
9 that, right? I mean there's no fear that this is
10 gonna go away in the next Administration, right,
11 there's...

12 STEVEN CAPUTO: The... well the program is
13 continuing through 2014 and one thing I can, in
14 response to that question, I think... we think the
15 program model is really compatible with energy
16 efficiency as well and so since the Council passed
17 the Greener, Greater Buildings Plan in specifically
18 Local Law 87, which requires...

19 CHAIRPERSON GENNARO: Right.

20 STEVEN CAPUTO: audits and retro-
21 commissioning... [crosstalk]

22 CHAIRPERSON GENNARO: Yeah, yeah, yeah.

23 STEVEN CAPUTO: big buildings, so about
24 80 percent of the No. 6 oil buildings have to also
25 comply with that... those rules, so we're gonna be... the

1 same buildings are gonna be doing, you know a
2 different set of work; we think that that program,
3 management, model, financing; whatever, can be used
4 to accelerate retrofits under Local Law 87...

5 [interpose]

6 CHAIRPERSON GENNARO: Right.

7 STEVEN CAPUTO: so we're looking at how
8 to do that. You know, the law's already in place,
9 it's really just now figuring out how to come up
10 with... you know, continue the effort.

11 CHAIRPERSON GENNARO: Right. So that's
12 not something that we necessarily, you know, have to
13 reduce legislation to make sure... [interpose]

14 STEVEN CAPUTO: Yeah.

15 CHAIRPERSON GENNARO: that it continues
16 to go forward... [crosstalk]

17 STEVEN CAPUTO: Yeah, the legislation's
18 already in place; we just wanna get... [crosstalk]

19 CHAIRPERSON GENNARO: Right.

20 STEVEN CAPUTO: as much out of it as we...
21 [interpose]

22 CHAIRPERSON GENNARO: Okay; I just wanted
23 to, you know see what needs to be done before we go.
24

1 And with regard to the City's position on
2 705, I guess... I guess Mr. McCann, right, has been you
3 know working with some of the theatre, you know
4 production folks, so the part of the statement that
5 you know talks about the problems that the industry
6 would have; was that kind of figured out by the
7 Office of Long-term Planning or was this a
8 conversation between Mr. McCann and the folks in the
9 industry or... [crosstalk]

11 STEVEN CAPUTO: We worked together, but
12 Dean can provide more detail... [interpose]

13 CHAIRPERSON GENNARO: Yeah. Why don't
14 you give me a little more on that, Mr. McCann, just
15 say your name for... [crosstalk]

16 DEAN MCCANN: I'm Dean McCann, the
17 Executive Director of Production and Operations for
18 the Mayor's Office of Film, Theatre and Broadcasting.

19 We worked in collaboration... [interpose]

20 CHAIRPERSON GENNARO: Okay.

21 DEAN MCCANN: with the industry; we speak
22 on a consistent basis... [interpose]

23 CHAIRPERSON GENNARO: Yeah.

24 DEAN MCCANN: with the MPAA, the
25 Producers Guild, the studios, down to our smaller

2 local vendors and it's an ongoing conversation. The
3 one thing that I have noticed over my years of
4 working at the Administration with the industry is
5 they are one of the most proactive environmental
6 industries that I've encountered. You know they're
7 way ahead of the curve; when we launch our own
8 environmental initiatives, oftentimes they're already
9 there and surpassing what we were hoping to
10 implement. So it... I mean you'll hear from their
11 expertise today from a variety of sources, but we all
12 spoke in collaboration and that in a nutshell is some
13 of the challenges that we see in an immediate, you
14 know... [interpose]

15 CHAIRPERSON GENNARO: Okay. And they'll
16 come forward; they'll be able to speak for
17 themselves. You know, the whole genesis for this was
18 kind of like an update of the law we did a couple
19 years ago where they... we used this section of... or
20 this segment of the generator, you know users to... you
21 know to go to ultra-low, and of course there was a
22 bill before that that would've... you know, it became a
23 bill that required them to use ultra-low, but before
24 the bill as first proposed was much more scary and I
25 didn't agree with it and I thought just using the

2 ultra-low was good enough and this just seemed like a
3 logical next step, but you know, sometimes logical
4 next steps are not easy to implement and... Okay, so
5 you know, we got your position on that; the industry
6 will speak for themselves and then we'll, you know,
7 figure that out, but duly noted.

8 And I would like to recognize Council
9 Member Donovan Richards for questions.

10 COUNCIL MEMBER RICHARDS: Just one
11 question, just wanted to know; can you sort of
12 expound on the Clean Heat... the Clean Heat program's
13 initiative and I wanted to know if it's feasible for
14 you to give us a breakdown of where... the 2700
15 buildings that's in your testimony, where are these
16 buildings at or how many in my district, so I would
17 love to just get that answer. You can follow up
18 later, you know, if you don't have the answer now,
19 but.

20 STEVEN CAPUTO: Yeah, we can definitely
21 do that and you can also... if you go to the Clean Heat
22 website there's an interactive mapping resource
23 called Spot the Soot, which actually shows all the
24 locations, the buildings and whether they've
25

converted, but we can definitely give you a breakdown by zip codes and Council district... [crosstalk]

COUNCIL MEMBER RICHARDS: What's the website name?

STEVEN CAPUTO: The website is nyc.gov... [crosstalk]

COUNCIL MEMBER RICHARDS: Oh, n y...

STEVEN CAPUTO: /cleanheat and you'll... you'll see the map on there, but we'll follow up with you with a breakdown.

COUNCIL MEMBER RICHARDS: Thank you.

CHAIRPERSON GENNARO: With that said, thanks to the team from the Administration; we appreciate, you know, your very comprehensive testimony, all your good work and yeah, we look forward to doing the b-5 and we'll, you know, talk about the pilot and talk about the... perhaps the study that will, you know result in recommendation. You know, we heard you on the generator thing and yeah, so I think we're good.

STEVEN CAPUTO: Great. Thank you...

[crosstalk]

CHAIRPERSON GENNARO: We know where to find you. Okay.

2 COUNCIL MEMBER RICHARDS: Thank you.

3 STEVEN CAPUTO: Okay. Thanks a lot.

4 CHAIRPERSON GENNARO: 'Kay. Thank you
5 guys; appreciate it. And the next panel we're gonna
6 hear... woops... Sergeant? Where's the Sergeant?
7 Sergeant, would it be possible to do like a six-
8 person panel or is that gettin'... that's gettin'
9 carried away, right? Can we do six? Alight. Yeah,
10 'cause I wanna... you know, 'cause... oh, but wait a
11 minute... Hold on a minute. Okay, with regard to
12 Teamsters Local 817... again, people aren't on... I'm not
13 supposed to... but is this... is 817 more appropriate to
14 put up with the movie picture studio people or with
15 the fuel people?

16 MALE VOICE: Say the movies.

17 CHAIRPERSON GENNARO: The movies. Okay,
18 fine, fine, fine. Okay. Yeah, that's not suppose to
19 happen, but... 'cause you're not on the record when...
20 without a microphone. So we're puttin' this guy on
21 with the movies.

22 Okay, so we're gonna have a first in the
23 Committee, we're gonna have a six-person panel, which
24 is probably way too big, but... or... there's even more
25 here now. What's this? Yeah, but that... Okay, the

1
2 movies' gonna have to be two panels. Where's the
3 other slip? Okay, we're gonna kinda break it up into
4 what seem to be the people who are in like the movie
5 business and the people who are in... the people that
6 service the movie business with like the mechanics
7 and the fuel and all that, so that's... is that okay,
8 'cause otherwise we're gonna have a seven-person
9 panel and it's too big. So it's gonna be a four-
10 personal panel for the movies and then a three-person
11 panel. So the first panel, Manjo Winkler; is that...
12 am I saying that right? Oh... oh, Mari Jo. Oh, pardon
13 me, of the Producers Guild of America East, Dana
14 Kuznetzkoff of the Producers Guild also, Jane Nunez
15 of the Association of Independent Commercial
16 Producers, Angela Miele, and it says Stuart Match
17 Suna... Stuart's not here, right?

18 FEMALE VOICE: Yeah.

19 CHAIRPERSON GENNARO: Oh, yeah? Oh... oh,
20 so did you wanna testify? Okay, so...

21 MALE VOICE: Sure.

22 CHAIRPERSON GENNARO: Okay, so we got... I
23 didn't know you were here, Stuart. Okay, so... 'cause
24 it was two names on one slip, so I didn't see that.

25

2 So that's already like a five-person panel. Okay,
3 so... 'kay.

4 [background comment]

5 CHAIRPERSON GENNARO: I... I... I just...

6 [crosstalk]

7 [background comments]

8 [laughter]

9 CHAIRPERSON GENNARO: I'm not the casting
10 director. I'm not the casting director. I... I'm not...
11 and so... and then the next panel to come up will be
12 Russell Sagerman of Feature Systems/AICP, John Ford,
13 Motion Picture Studio Mechanics, James Fanning of
14 Teamsters Local 817. And you know, I hope I split
15 the panels right, but even if I didn't, all the
16 testimony'll, you know get on the record and this is...
17 and you know, thank you for coming out in force and
18 letting me know everything I need to know to make
19 sure that we move the city in a good direction and we
20 don't trip people up as we're trying to do good
21 things. I had the occasion to speak with some folks
22 in your industry yesterday, so I think I have some of
23 what you have... have in mind, but let me stop talking
24 and let you, you know good people give your testimony

25

2 and I'll ask the counsel to swear the panel and then
3 new can commence.

4 COMMITTEE COUNSEL: Can you please raise
5 your right hands? Do you swear, affirm to tell the
6 truth, the whole truth and nothing but the truth
7 today?

8 MALE VOICE: I do.

9 CHAIRPERSON GENNARO: Okay. Thank you.
10 So do I have statements from the... from the witnesses?

11 COMMITTEE COUNSEL: There you go.

12 CHAIRPERSON GENNARO: Okay. I just...
13 [crosstalk]

14 COMMITTEE COUNSEL: and then a statement
15 for Jane.

16 CHAIRPERSON GENNARO: Okay, I have uh...
17 uhm...

18 COMMITTEE COUNSEL: This is a joint
19 statement, Dana and Mary Jo Winkler; this one's from
20 Jane.

21 CHAIRPERSON GENNARO: Okay, so why don't
22 we... again, this is the first statement I have in my
23 hand; why don't we start with that? This would be
24 from the Producers Guild; this would be Dana and Mari
25 Jo and who are Dana and Mari Jo? Okay, great. So if

1
2 you can... just put your names on the record and
3 proceed with your good testimony.

4 DANA KUZNETZKOFF: My name is Dana
5 Kuznetzkoff; I wanna thank Mr. Chairman and the
6 Committee for giving us this opportunity. I'm a born
7 and raised New Yorker and I've been in film and
8 television production for a little more than 20
9 years. Through these past two decades we've seen
10 remarkable changes, as was already stated, back 20
11 some odd years ago there was just a handful of film
12 and television productions till last year, when there
13 were 26 episodic TV shows and over 260 feature films.

14 We are here today on behalf of the
15 Producers Guild of America East in support of this
16 legislation Number 705 for the use of b-5 biodiesel
17 fuel in diesel-powered generators used in productions
18 of films, television programs and advertisements and
19 street fairs in New York City.

20 Since 2004, when New York began offering
21 tax credits to support the film and television
22 industry we've experienced a record number of
23 shooting days. It is estimated that during this time
24 producers have spent more than \$7 billion in New York
25 and that this program is responsible for more than

1
2 500,000 that's half-a-million, hires. Working
3 together with the IAA, the Teamsters and the
4 Bloomberg Administration, the film community has seen
5 unprecedented growth, putting more and more people to
6 work and consequently, more diesel-powered generators
7 on the street.

8 Biodiesel is a renewable, clean-burning
9 diesel replacement that is reducing U.S. dependence
10 on foreign petroleum, creating jobs and improving the
11 environment. Biodiesel reduces CO2 emissions by over
12 78 percent compared to petroleum diesel. Even
13 blended with petroleum diesel, biodiesel
14 significantly reduces emissions.

15 Now according to the U.S. Department of
16 Energy, on their website, all OEMs; that's original
17 equipment manufacturers, accept the use of b-5 in
18 their warranties and many accept the use of b-20. In
19 our experience we have found that there is no
20 evidence that equipment needs to be upgraded for the
21 use of b-5; b-5 is broadly accepted, it's not a
22 problem in cold weather and it is readily available
23 in New York City.

24 MARI JO WINKLER: Good afternoon. My
25 name is Mari Jo Winkler and Mr. Chairman and the

2 Council, thank you very much for all of your good
3 work that you've done... [interpose]

4 CHAIRPERSON GENNARO: Sure. Yeah, just
5 make sure to talk loud into the microphone.

6 MARI JO WINKLER: very proud to live and
7 work in New York City.

8 I am an Executive Producer and a Chair
9 and founding member of the Producers Guild of America
10 Green Committee, National Green Committee. The
11 Producers Guild of America Green Committee was
12 established in 2008 to work with the film community
13 to promote sustainability in the industry. We have
14 been supported by and work in conjunction with the
15 five major studios to promote the mission.

16 I have personally had experience in the
17 last five years implementing the use of b-5 on four
18 films that I have executive produced, Away We Go,
19 Fair Game, Premium Rush and The Dictator. I have
20 made it a priority on the films that I produce to
21 maintain a certain level of sustainability.

22 What I have found is that it takes
23 management willpower. Incorporating the use of
24 biodiesel into your production does take additional
25 time and attention and good communication on behalf

1
2 of the management team and the transportation
3 department, but it is time well spent to clean up the
4 air we breathe. There's an adequate supply of b-5 in
5 New York City; it is our understanding that every
6 licensed diesel distributor has access to and is
7 capable of delivering it.

8 With good transportation management, a
9 film set should never run out of fuel. Furthermore,
10 we believe in the law of supply and demand and if
11 there's a higher demand for biodiesel, production
12 would go up to meet that demand and therefore prices
13 would eventually go down.

14 The Mayor's Office of Film, Theatre and
15 Broadcasting issued hundreds of permits in the last
16 year; imagine if every production was running their
17 generators on biodiesel. The positive effects to the
18 environment would be astounding, not to mention the
19 good faith it would bring to the many communities we
20 film in.

21 The west coast is way ahead of us in
22 terms of clean energy standards and for the New York
23 film industry to maintain its current level of
24 activity and growth we cannot survive without
25 reducing the accompanying carbon footprint.

2 By putting this legislation into law it
3 would make it mandatory for all producers to
4 implement and promote higher levels of
5 sustainability. The Producers Guild of America's
6 support of this legislation is part of our ongoing
7 work to reduce carbon emissions and increase
8 sustainability in our industry. Thank you very much.

9 CHAIRPERSON GENNARO: Thank you. And
10 ordinarily when we... and when we put together panels,
11 normally they're... you know we have panels that are
12 like for the legislation and panels that are in
13 opposition and I didn't even look to see what box was
14 checked and so we have, I guess a panel that has, you
15 know different views, so... [interpose]

16 [background comments]

17 [laughter]

18 CHAIRPERSON GENNARO: No, no, no, no. I
19 mean it just... it just may... I just don't want the
20 people who are against the bill to think... [crosstalk]

21 MARI JO WINKLER: You don't want anyone
22 to punch us?

23 CHAIRPERSON GENNARO: No, I just don't
24 want anyone to think that this was a setup, that I,
25 you know called on you guys to testify first; I was...

2 I... I was... you know, I just didn't know that, so...

3 [interpose]

4 [background comment]

5 [laughter]

6 CHAIRPERSON GENNARO: Okay, well yeah,
7 it's all... that's all... it's all good. Thank you very
8 much for your testimony and you know, for your
9 commitment to the environment; I appreciate that.

10 And next, testimony from the Association
11 of Independent Commercial Producers; this is Jane
12 Nunez... [crosstalk]

13 JANE NUNEZ: Nunez.

14 CHAIRPERSON GENNARO: right, Nunez?

15 JANE NUNEZ: Right.

16 CHAIRPERSON GENNARO: Okay. And just so
17 I know, just go back to the previous witnesses, you
18 are... this is... your testimony was on behalf of
19 Producers Guild of America East and that's... and so,
20 like what's your province, like the whole eastern
21 part of the country or? Okay. Okay. And then this
22 is the... the... [interpose]

23 [background comment]

24 CHAIRPERSON GENNARO: the Asso... the next
25 witness is the Association of Independent Commercial

1 Producers, Inc.; is this just like a city
2 association... [interpose]

3 JANE NUNEZ: Nationwide.

4 CHAIRPERSON GENNARO: Nationwide. Okay.
5 Yeah, I just wanted to get that set in my head.
6 Okay. Please, could you state your name and
7 continue?
8

9 JANE NUNEZ: Good morning Chairman
10 Gennaro and members of the Committee. My name is
11 Jane Nunez and I am Vice President of the Association
12 of Independent Commercial Producers. On behalf of
13 the AICP I would like to express our concerns
14 regarding 705.

15 This legislation will require film,
16 television and commercial productions in New York
17 City to use b-5 biodiesel fuel in diesel-powered
18 generators and the best available technology in
19 generators on locations shoots permitted by the City..
20 [crosstalk]

21 [background comments]

22 JANE NUNEZ: The AICP is the exclusive
23 representative domestically of over 325 small to mid-
24 size companies that specialize in producing
25 commercials for advertisers and agencies.

2 Additionally, the AICP counts among its membership
3 almost 200 firms that provide production support,
4 such as equipment rental companies.

5 As we testified in January of 2009, when
6 0684 A first considered the requirement of using
7 ultra-low sulfur diesel fuel in diesel-powered
8 generators, AICP members full support efforts to
9 protect our environment, implement measures to
10 provide for cleaner air and efficient use of
11 resources. As we acknowledge our commitment to
12 supporting the use of clean energy and other
13 sustainable practices and therefore support certain
14 concepts reflected by this legislation, the AICP has
15 serious concerns in regards to the implementation of
16 705.

17 A majority of the existing generators,
18 which will not be able to operate on b-5 biodiesel
19 will force vendors to upgrade their equipment. While
20 b-5 biodiesel fuel may be compatible with some of the
21 newer existing generators, the use of such fuel may
22 void the generator's warranty if a problem develops
23 with the generator, which is highly likely.

24 The lack of b-5 biodiesel fuel will
25 certainly drive up prices of fuel for commercial

2 productions that continue to face shrinking budgets.

3 Any cost increase or continuous production delays

4 cause... [interpose]

5 CHAIRPERSON GENNARO: Hold... [crosstalk]

6 JANE NUNEZ: Yep.

7 CHAIRPERSON GENNARO: just... I... I... I...

8 there's a section of your statement... [interpose]

9 JANE NUNEZ: There's a section here

10 that's going to be stated by at least two other

11 people.

12 CHAIRPERSON GENNARO: Oh no, 'cause I'm...

13 I'm just following and then you were reading

14 something that wasn't in your sta... [interpose]

15 JANE NUNEZ: Right, I skipped

16 availability because other people are gonna... I didn't

17 wanna beat you to death...

18 CHAIRPERSON GENNARO: 'Kay, so... so where

19 are you?

20 JANE NUNEZ: Higher costs.

21 CHAIRPERSON GENNARO: So you're... oh, so

22 you're in the... oh, alright, the lack of die...

23 [interpose]

24 JANE NUNEZ: Okay. Yeah.

1
2 CHAIRPERSON GENNARO: Okay, please
3 continue. Yeah.

4 JANE NUNEZ: Any cost increase or
5 continuous production delays causing ongoing problems
6 by productions leaving the city. Due to many factors
7 New York City has some of the highest production
8 costs in the world and a measure like this will
9 further discourage commercial production in New York
10 City. This proposal fails to address other New York
11 City industries and businesses, like construction,
12 transportation and utility crews that also use
13 outdoor generators throughout the City on a daily
14 basis.

15 If the City is committed to supporting
16 practices that reduce the emission of air pollutants,
17 strengthens the alternative fuel market and increase
18 emergency independence and the diversity of our
19 emergency supply, why does this legislation only
20 target street fairs and film crews?

21 It's important to note that ULSD fuel is
22 currently being used by many AICP members. We
23 recommend that language be added to clarify which
24 alternative fuels meet the requirements of 705.

2 Although the bill features a 180-day
3 phase-in for compliance, the AICP believe this is too
4 short a timeframe for companies to find and establish
5 a fleet of fuel-compliant generators for use. To
6 address this the AICP recommends that the City allow
7 for the use of existing generators, allowing for an
8 appropriate compliance window to phase out previously
9 compliant generators over their reasonable lifetime
10 so that they may be used without penalty.

11 Thank you and the AICP looks forward to
12 continuing to work with the City Council on this
13 legislation and future issues of concern.

14 CHAIRPERSON GENNARO: Thank you. And
15 then I'll hear all the... all the witnesses speak...
16 [crosstalk]

17 JANE NUNEZ: You'll hear the... yes, yes.

18 CHAIRPERSON GENNARO: before I... before I
19 pose questions. And Stuart; you wanna... you have
20 testimony too... [crosstalk]

21 [background comment]

22 CHAIRPERSON GENNARO: Oh sure. Sure.
23 Sure. Let me just... [interpose]

24 [background comment]

2 CHAIRPERSON GENNARO: Yep, yep, yep.

3 And... hang on... just wanna get my slips right, so... So
4 we had Mari Jo, Jane and...

5 [background comment]

6 CHAIRPERSON GENNARO: Dana spoke already,
7 right?

8 [background comment]

9 CHAIRPERSON GENNARO: Okay. Alright.
10 Okay, Miss... Miss Miele, will you please state your
11 name? And... and... and... [interpose]

12 [background comment]

13 CHAIRPERSON GENNARO: You don't have a
14 written statement for me to... I can just listen...
15 [interpose]

16 ANGELA MIELE: I can e-mail it to you...

17 CHAIRPERSON GENNARO: No, it's okay.
18 I'll just know to take my glasses off... [interpose]

19 ANGELA MIELE: Oh, okay.

20 CHAIRPERSON GENNARO: all the neat notes.

21 ANGELA MIELE: Thank you Chairman
22 Gennaro... [interpose]

23 CHAIRPERSON GENNARO: Sure.

24 ANGELA MIELE: my name is Angela Miele;
25 I'm with the Motion Picture Association of America

1
2 and I wanna thank you and the members of the
3 Committee to allow us to testify... [interpose]

4 CHAIRPERSON GENNARO: Sure.

5 ANGELA MIELE: here today. MPA members,
6 just the for the Committee's edification, Disney,
7 Sony, Warner Brothers, Paramount, Fox, NBC,
8 Universal; CBS is actually an affiliate member of the
9 Motion Picture Association.

10 First of all I wanna make sure that
11 you're aware that we have a long and proud history of
12 sustainable environmentally friendly practices; I
13 know we've worked closely with the PGA especially on
14 the west coast and this goes back, you know well over
15 a decade, not only air quality, but reducing waste in
16 terms of production, using the lumber and things over
17 and... and... [interpose]

18 CHAIRPERSON GENNARO: Sure.

19 ANGELA MIELE: all that type of
20 recycling, so it's something that we go way back and
21 we know back in 2009 worked really closely with you
22 and the Committee and the industry to come together
23 on a measure that was really workable and we were
24 really pleased that it was the ultra-low sulfur, it
25 was something that was clean, it was... [crosstalk]

2 CHAIRPERSON GENNARO: Right, but... but it
3 was... it was... it just wasn't workable, just...

4 ANGELA MIELE: it was very workable...

5 CHAIRPERSON GENNARO: Yeah.

6 ANGELA MIELE: So what... what... [crosstalk]

7 CHAIRPERSON GENNARO: It was the right
8 thing to do.

9 ANGELA MIELE: what we would like to do
10 is to sit down with you and to work up some kind of a
11 solution whereby it's something that we can see is
12 absolutely available, because I know we've heard from
13 PGA; I know we'll hear from others, 'cause I spoke
14 direct... spoken directly and... and thank your offices
15 for putting us in touch with the fuel supplies while...
16 [crosstalk]

17 CHAIRPERSON GENNARO: Yeah. I also would
18 like... you know, one of the benefits that comes out
19 these hearings; you're sitting in the same room with
20 the people who supply the stuff and... [crosstalk]

21 ANGELA MIELE: Right and it... and it was
22 help... it was helpful to hear and... and... [interpose]

23 CHAIRPERSON GENNARO: Right.

24 ANGELA MIELE: it was helpful to know
25 that there are terminals and that there is

1
2 availability; however the terminals, from our
3 members' perspective is that those terminals are
4 actually in certain areas of the city and the problem
5 that our members are nervous about in terms of the
6 availability, which is our biggest concern with this
7 bill, is that you're not going to be able to have
8 that immediate access that you have for the ULSD
9 that's available... that's pervasive throughout the
10 city. So that's... [interpose]

11 CHAIRPERSON GENNARO: It's ubiquitous;
12 that's all there is.

13 ANGELA MIELE: and... right, and so that's
14 all there is. And so you know, we were thinking,
15 well why don't they have a mandate along the lines of
16 what British Columbia does and they have b-5 as a
17 mandate for the whole... you can't go into British
18 Columbia without b-5; there's nothing that operates
19 without b-5, so that way you actually... our guys will
20 know that that supply is really there and it's not
21 just that people say it's there and we know that they
22 can, you know deliver it... a lot of our production
23 companies do get deliveries to the site, they don't,
24 you know, it's not to say that they have to travel,
25 but they may have to travel greater distances.

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So we'd like to work with you...

[interpose]

CHAIRPERSON GENNARO: Right.

ANGELA MIELE: so that we can come to some understanding, because our members are quite frankly very, very nervous about the availability. While I know people say it's available, they're just nervous that it may not be and so it really becomes an operational issue; we're all about the environmental, being green and as I said, we have a long history, the Producers Guild and others; we work together in many aspects of environmental issues, so what we wanna do is work with you to make that so it's... they're very assured that it's available, not just hearsay; not that, you know, the supply is there; we will make sure it's pervasive, alright, so everything... it's everywhere, it's not just in certain terminals or you know, in certain locations where it's available.

So I'm happy to hear that it is...

[interpose]

CHAIRPERSON GENNARO: Right.

2 ANGELA MIELE: available; our guys don't
3 believe so, the people who are on the ground, so we'd
4 like to work with you on that... [crosstalk]

5 CHAIRPERSON GENNARO: Right. And we're
6 gonna be hearing from, you know people in the
7 industry and so... but please continue.

8 ANGELA MIELE: Right. So anyway, most of
9 our members actually rent the generators rather than
10 own the generator, so we're relying on the people
11 with whom our production companies do business, so...
12 [interpose]

13 CHAIRPERSON GENNARO: 'Kay, that was...

14 ANGELA MIELE: that was... you know that's
15 how... [interpose]

16 CHAIRPERSON GENNARO: that was part of my
17 conversation with some folks yesterday; I said it'd
18 be good for people for who are in the generator
19 business to be... and I think perhaps the next panel
20 can speak to that a little bit, but 'cause you guys
21 aren't in the generator business... [crosstalk]

22 ANGELA MIELE: Right and I think some
23 people were unable... given the short notice they
24 weren't able to be here, so... [crosstalk]

25 CHAIRPERSON GENNARO: Right. Okay.

2 ANGELA MIELE: we'd be happy to put you
3 in touch and work this out so that we really have a
4 thorough understanding... [interpose]

5 CHAIRPERSON GENNARO: Right.

6 ANGELA MIELE: of the nervous system.
7 Obviously you're very familiar with this industry,
8 you know how mobile they are and any little thing
9 that gets out in the industry about, you know...
10 [crosstalk]

11 CHAIRPERSON GENNARO: They shot at my
12 house...

13 [laughter]

14 CHAIRPERSON GENNARO: Some people or six
15 months ago; whatever or more, just bunch of people
16 standin' outside my house going like this, you know
17 and... and I went outside and I said, you know, can I
18 help you? You know, they looked like very decent
19 upstanding, well-dressed, you know, people, you know
20 an interesting collection of folks and they're like,
21 well we're shootin' this TV show and you know, we
22 have a character that I think would live in your
23 house, you know and I'm like, okay, you know and so,
24 like may we come onto your property? I'm like, sure,
25 you know, okay. And I kinda like outsourced this

1 whole project to my... you know, to my adult son; I
2 said, just talk to him and then the next day he's
3 like, "Dad, we're doing this," you know what I mean
4 and so it happened; it was... you know, it was a nice
5 experience and it was... we were able to stay in the
6 house and they shot inside the house, they shot
7 outside the house and you know, my wife is disabled;
8 I said, "Look, she's gotta be able to get outside and
9 go to physical therapy and come back and," you know
10 and they're like, okay, no problem, we'll interrupt
11 the production when she has to go and everything
12 worked swimmingly and there was... yeah and my son
13 takes care of my finances, so I never got to spend
14 the money, but...

16 [laughter]

17 CHAIRPERSON GENNARO: you know he took
18 care of us... [interpose]

19 [background comments]

20 CHAIRPERSON GENNARO: So yeah, it was... it
21 was... it was wonderful. Yeah, it was really... it was
22 really terrific and then I got to see my house on
23 television, so. Yeah. I'm not gonna tell you the
24 show; I don't wanna... whatever. But it just... I mean I
25 didn't in any way solicit it, they just were... they

1 said we're doin' like a bigger shoot around the
2 corner and it would be convenient for us to do this
3 other little scene like proximate to the big one, you
4 know and like we really went out of our way to pick
5 that other house, but for this other scene, like your
6 house'll do, you know and so...

7 [laughter]

8 CHAIRPERSON GENNARO: and so there you
9 have it, my house is in a movie.. [interpose]

10 ANGELA MIELE: Great, now you have that
11 experience. [crosstalk]

12 CHAIRPERSON GENNARO: I mean it's in... in
13 TV and so yeah, I'm... yeah, a number one.. [interpose]

14 ANGELA MIELE: What kind of fuel were
15 you... they using in the generator?

16 [laughter]

17 ANGELA MIELE: I'm just kidding, just
18 kidding, just kidding.

19 CHAIRPERSON GENNARO: I... yeah, I... I... I...
20 I... I wasn't... I wasn't askin' any questions that day..

21 [laughter]

22 CHAIRPERSON GENNARO: but that's... I was...
23 but I did go to the... they invited me to help myself
24

1 at the catering truck and so and that was...

2 [interpose]

3 ANGELA MIELE: That's a great perk.

4 CHAIRPERSON GENNARO: Yeah, I just wanted
5 to be polite and I wouldn't help myself, you know.

6 [laughter]

7 CHAIRPERSON GENNARO: I just figured that
8 was only being polite. Anyway, I really... [crosstalk]

9 ANGELA MIELE: Well, then I guess you can
10 appreciate one of the things that... that's important
11 is that because these productions, they like... time is
12 money, so... and I appreciate hearing what Mari Jo was
13 doing in terms of trying to get you know the b-5 in
14 there; our guys are all for the b-5, we're all for
15 that... [interpose]

16 CHAIRPERSON GENNARO: Uh-huh.

17 ANGELA MIELE: we're not saying don't use
18 b-5; we just wanna make sure it's available and make
19 sure that we're not, you know having this demand when
20 you don't have the supply... [crosstalk]

21 CHAIRPERSON GENNARO: Right. And you
22 also mentioned...

23 ANGELA MIELE: So that's really their
24 concern.
25

2 CHAIRPERSON GENNARO: you also mentioned
3 the warranty thing. Right. Or somebody mentioned
4 the warranty thing.

5 ANGELA MIELE: I mean I think the newer
6 generators do use it... [interpose]

7 CHAIRPERSON GENNARO: Right.

8 ANGELA MIELE: and I think there are some
9 issues; I don't know, I'm not a technical expert, so...
10 [interpose]

11 CHAIRPERSON GENNARO: Right.

12 ANGELA MIELE: I'll let others speak to
13 that, but... [crosstalk]

14 CHAIRPERSON GENNARO: And I'm breaking my
15 own rule, 'cause I said I wasn't gonna ask questions
16 until the panel was done, but please continue.

17 ANGELA MIELE: But I think the... our... As I
18 said, our greatest concern is if you're filming, the
19 time is money; you... if for some reason that
20 availability, even if it's perceived that it's
21 difficult to acquire, our guys get... and gals... our
22 production companies get nervous if there's that
23 perception, if word gets out; you know how in this
24 industry never gets out, so if it's not timely and
25 they're finding things are getting delayed, that's

1 what's giving our guys a Maalox moment about this
2 availability issue. So that's really our greatest
3 issue is the terminal, the availability with the
4 terminals, just by the fact I know that, you know it
5 can delivered and a lot of our companies do get the
6 delivery now, but...

8 Anyway, the other issue that's already
9 been mentioned is the street fairs; why just target
10 us with the movie industry and street fairs; I know,
11 obviously given the information you've heard,
12 obviously there's a lot of production in the city,
13 but we don't feel that this industry should be
14 singled out, while I know they probably use a lot of
15 the generators; why not make it applicable as a whole
16 general rule if you're really looking for a cleaner
17 environment, apply it to all industries, anybody who
18 uses a generator period in New York City. So...

19 [crosstalk]

20 CHAIRPERSON GENNARO: We have a good
21 answer for that, but you know, duly noted, you know.

22 ANGELA MIELE: Anyway, but I do wanna
23 thank you for bringing this... [interpose]

24 CHAIRPERSON GENNARO: Sure.
25

2 ANGELA MIELE: to our attention; I know
3 you've been a real champion of the environment and we
4 appreciate that and we appreciate your working with
5 us in the past, but we really... [interpose]

6 CHAIRPERSON GENNARO: Yeah.

7 ANGELA MIELE: wanna express our concern
8 about this availability issue, which is really
9 reeking havoc with our members, is really just the
10 availability piece of this right now, so we'd really
11 like to work with you to figure out how we resolve
12 that concern. Okay. Thank you... [crosstalk]

13 CHAIRPERSON GENNARO: Okay. Yeah. Thank
14 you. Thank you. And Allen, yes... [crosstalk]

15 STUART SUNA: Actually it's Stuart.

16 CHAIRPERSON GENNARO: Stuart, Stuart, so
17 forgive me; I was going... I... I... [interpose]

18 STUART SUNA: He's my brother.

19 CHAIRPERSON GENNARO: No, I... I... I... I
20 wrote a note here on your sign to sorta have you give
21 my best to Allen and then I saw Allen and I just
22 wrote that, so that's why. I know that you're
23 Stuart, yeah.

24 STUART SUNA: Thank you Mr. Chairman and
25 as you know I'm a very serious environmentalist most

1 of life; Silvercup is very proud to have you...

2 [crosstalk]

3
4 CHAIRPERSON GENNARO: Yes, I was... I was
5 going to give you a lot of... you know, I was gonna
6 give you a shout out for that, for your work, the
7 work of your wife and all the, you know good things
8 that you do... [interpose]

9 STUART SUNA: Thank you. We love New
10 York City and Silvercup I think has one if not the
11 largest green roof in New York City and... [interpose]

12 CHAIRPERSON GENNARO: It sure does.

13 STUART SUNA: we had a nice, also support
14 from the New York Power Authority, not exactly the
15 greenest of all entities, but you know... [interpose]

16 CHAIRPERSON GENNARO: Right.

17 STUART SUNA: we certainly wanna keep the
18 city green. And I have been working in the film
19 industry for 30 years, as we start to talk about the
20 studios, and also as an architect and real estate
21 developer I also grew up working in the construction
22 industry and still do a lot of construction, as you
23 know... [crosstalk]

24 CHAIRPERSON GENNARO: Right.

2 STUART SUNA: And one of things I just
3 wanna say is that, as we talk about supply and
4 demand, we talk about making cleaner air, if we're
5 gonna make a rule that generators and trucks should
6 be using b-5 diesel fuel, then I think it should be
7 absolute and it should be everybody and this way
8 there's not an issue of supply and demand; it's not
9 an issue about where do you go and can someone charge
10 more, 'cause I don't believe... you know and I'm sorry
11 for saying this, but there was a statement you said
12 here before that the law of supply and demand, if
13 there is a higher demand, biodiesel production would
14 go up and prices should come down.

15 Well that doesn't always work that way,
16 as we know in the world of business, you know, if you
17 have a higher demand you might just keep the prices
18 up. It really is about really keeping the production
19 going; I know how important you feel production is
20 and it's important that it should really be
21 universal. A lot more, you know, particulate and
22 pollution comes out of construction sites and the
23 trucks are on... I know when you go for a lead
24 certified project on a construction site you need to
25 have certain types of generators and all your trucks

1
2 and all your equipment need to be there; it's a much
3 bigger impact upon the City of New York than just the
4 film industry, many more employees and many much more
5 pollutants. So I think we should really take a
6 broader look; I really would encourage you to do
7 that.

8 I stopped working and rebuilding my
9 carburetor in my cars many years ago, but I used to
10 do some mechanical work, but when speaking to the
11 maint... since... Silvercup and Silvertrucks does own
12 generators; some of them are five years old, some of
13 them more than 10 years old; I have been told by the
14 mechanics who do do the work now that the ones that
15 are more than 10 years old would need to be spend
16 about a \$30,000 retrofit; they would be able to
17 receive the b-5 now, but they will have more problems
18 in the fuel injector pumps and the pipes and some
19 things would need to be changed and we start to say
20 well is it better to change them or just buy new
21 ones, which is not the best, most environmentally
22 friendly. So I really question the whole logic of
23 all of this, whether it's really helping make it a
24 cleaner, better city.

2 When you mentioned California, also
3 coming from the PGA, you know, New York is
4 fortunately now one of the greenest cities in
5 America, mostly because we're so compact and because
6 we have this great subway system and California
7 doesn't have any of that; they're sort of sprawled
8 out; I think, if I remember correctly, 75 percent of
9 the greenhouse gases of this country are not from
10 trucks, planes and cars, but it's really from heating
11 and cooling of homes around this planet, so as you've
12 also... your other measure you've also talked about
13 heating fuels for buildings; I think that's a bigger
14 impact upon what we breathe; is much more important.

15 So I also wanna state for the record that
16 I am opposed to bill Intro 705, 'cause I think that
17 would really be damaging to our industry, not only to
18 my own business, but it would certainly cause us more
19 hassle and more delays; we also just... since the AICP
20 is one of our big clients for our generators, 'cause
21 we rent our generators mostly for commercials, not
22 for the feature films...

23 CHAIRPERSON GENNARO: Right.

24 STUART SUNA: and they move around a lot
25 in lots of locations; they're not getting deliveries,

1
2 they're sending their teams to a station to get
3 refueled. So if there... I don't know... and I assume
4 that the industry is gonna be speaking about... the one
5 who's supplying the b-5 diesel; I think it should
6 really be more universal; it should really be that...
7 it should be everybody; it's not just that we're
8 supporting one industry 'cause of b-5 or this one or
9 that one, it should really help if we wanna make New
10 York City a cleaner place.

11 I also... and I tried getting the paper for
12 you, but I couldn't get it in the short notice, but
13 the Sloan Foundation, the Alfred P. Sloan Foundation,
14 which is a big foundation; there's a lot of
15 scientific research, several years ago did a big
16 paper on the negatives of ethanol fuel and that when
17 you really look at the total carbon footprint...
18 [interpose]

19 CHAIRPERSON GENNARO: Yeah, but that...
20 we're not talkin' about ethanol; that's a completely
21 different kind of bio... [crosstalk]

22 STUART SUNA: Right, but biodiesel... this
23 still has a piece... this... it's still using... the 5
24 percent; isn't that...
25

2 CHAIRPERSON GENNARO: No, no, actually
3 that would be the... a big difference between the
4 ethanol kind of family of biofuels and sort of like
5 the vegetable oil family of biofuels, so ethanol is a
6 very, you know different creature and more... you know
7 there are, you know a fair amount of sustainability
8 issues that are attendant to ethanol... [crosstalk]

9 STUART SUNA: Correct, 'cause when...

10 CHAIRPERSON GENNARO: I'm not an expert
11 on ethanol; you know we use it as an additive in, you
12 know gasoline for air purposes; we used to use MTBE;
13 you know now they mostly use the ethanol, but it's a
14 very different creature, so this is not... [interpose]

15 STUART SUNA: Okay.

16 CHAIRPERSON GENNARO: what we're talking...
17 so... so b-5 and the biofuel that we're talking about
18 is not related to ethanol... [interpose]

19 STUART SUNA: Okay.

20 CHAIRPERSON GENNARO: which does have...
21 you know there's been a lot of sustainability
22 concerns with regard to ethanol, so point...
23 [interpose]

24 STUART SUNA: Correct.
25

2 CHAIRPERSON GENNARO: well taken, but not
3 relevant to this... [crosstalk]

4 STUART SUNA: Okay, so just... just... and we
5 start looking at carbon footprint of anything...
6 [interpose]

7 CHAIRPERSON GENNARO: Yeah, yeah, but...
8 but... [crosstalk]

9 STUART SUNA: but if we can just even...
10 just staying with b-5, even if b-5, so if the b-5 is
11 not readily available and the driver has to go to...
12 over there to get the gas, that's another 10 miles
13 and so... [crosstalk]

14 CHAIRPERSON GENNARO: Yeah, and...

15 STUART SUNA: we're burning a lot more
16 diesel just to go get it and come back, not to
17 mention the working time... [interpose]

18 CHAIRPERSON GENNARO: Right.

19 STUART SUNA: So until it is a universal
20 program, which I certainly encourage... [interpose]

21 CHAIRPERSON GENNARO: Yeah.

22 STUART SUNA: if it is a right thing,
23 then it should be citywide and it shouldn't just be
24 for a industry. And in such... you know, even though

1
2 it's a big industry; it's a little industry when you
3 look at construction.

4 CHAIRPERSON GENNARO: Right. Okay. No,
5 I'm... Oh no, no, no, you know, I get it. Yeah, just
6 to go through some of the testimony that was given
7 and... Oh I should mention that we're joined by Brad
8 Lander; Brad, good to have you. And just... with
9 regard to the rationale, 'cause this has come up... you
10 know, I'm not here to answer questions; I'm here to
11 pose questions, but you know, with regards to street
12 fairs and with you know, regard to TV and movie
13 production, we've done a lot of work you know with
14 construction sites that are... that were using you know
15 government dollars to like do the construction;
16 that's where we have... therefore spending New York
17 City Government dollars to you know build government-
18 funded buildings; you know we have a lot of ability
19 to influence what happens on those jobs and you know
20 the same with you know people who are asking for
21 permits to do things on city streets; it's not
22 private property, it's public property and so that's
23 where the city gets its upper hand, so okay, if you
24 want a street fair, if you wanna film a movie, you
25 wanna do this, then we have to give you a permit to

1 do that and that you know gives us broader ability to
 2 try to affect what goes on in this sector; there are
 3 other legal things that I'm not completely familiar
 4 with, you know regard to the Clean Air Act and mobile
 5 sources and so... and this was kind of like a step...
 6 this is kind of like the next generation of the bill
 7 we did a couple years ago which was gonna be this big
 8 onerous thing and I thought that was a bad idea; I
 9 felt we should just use like the low-sulfur fuel,
 10 like that would be good enough and we did that and so
 11 you know, based on the, you know recon that we had,
 12 this is something that would be you know workable,
 13 but this is why we have hearings and from the Mayor's
 14 Office and you know their concerns.

15
 16 But just from my own edification, you
 17 know you got generators on the site; do... is it the
 18 case where the fuel comes to the generator or the
 19 generators get hooked up to some... some tanks...
 20 [crosstalk]

21 STUART SUNA: Goes both ways; as I said,
 22 on the commercial productions the trucks, they come
 23 out to Long Island City, pick up the trucks; the
 24 teamster drives it; they use as much fuel as they...
 25 until they need more fuel; then he drives it during

1 let's say lunch break or break; he takes the truck
2 and goes to a diesel station. So since diesel is
3 readily available all over... [interpose]

4 CHAIRPERSON GENNARO: Right.

5 STUART SUNA: Manhattan, in all five... all
6 the boroughs... [crosstalk]

7 CHAIRPERSON GENNARO: So the...

8 STUART SUNA: it's easier to go to; if
9 there's only maybe half a dozen... [interpose]

10 CHAIRPERSON GENNARO: so the generator
11 like sits on the truck or is pulled by the truck or...
12 [interpose]

13 STUART SUNA: The genera... most of the
14 generators that we rent, they're actually... it's a
15 generator about the size of a couple conference
16 tables and it sits on the truck and has all these
17 silencers on it and it's on the flatbed of the truck,
18 so the truck... and it has an actual tank, like a...
19 [interpose]

20 CHAIRPERSON GENNARO: Right.

21 STUART SUNA: 100-gallon tank that drives
22 away and then comes back... [interpose]

23
24
25

2 CHAIRPERSON GENNARO: Right. Okay, so
3 it's not like you... but... but sometimes fuel would get
4 delivered to the site, depending on... [crosstalk]

5 STUART SUNA: Certainly after Hurricane
6 Sandy, when you saw all of the large generators that
7 were in Lower Manhattan or around NYU... [interpose]

8 CHAIRPERSON GENNARO: Right.

9 STUART SUNA: 'cause you know, I was very
10 familiar with...

11 CHAIRPERSON GENNARO: Yeah.

12 STUART SUNA: those generators are
13 tractor trailer generators, there's large...
14 [interpose]

15 CHAIRPERSON GENNARO: Yeah.

16 STUART SUNA: Caterpillar engines in
17 there and there you would have fuel trucks lined up
18 to keep refilling them, so that... when... that's a
19 tractor trailer, so the tractor would leave and then
20 they'd just sit there for a period of time...
21 [crosstalk]

22 CHAIRPERSON GENNARO: Right. But... but...
23 but... but... [interpose]

24 DANA KUZNETZKOFF: And it also depends on
25 the type of production... [interpose]

2 CHAIRPERSON GENNARO: Right.

3 DANA KUZNETZKOFF: often... most of my
4 shows would have the fuel come to us, a few... (CROSS-
5 TALK)

6 CHAIRPERSON GENNARO: Right.

7 DANA KUZNETZKOFF: the companies will
8 just bring it right to us... [crosstalk]

9 CHAIRPERSON GENNARO: Fuel truck will
10 come out and will... [crosstalk]

11 DANA KUZNETZKOFF: We have a fuel truck
12 on set and then a... [interpose]

13 CHAIRPERSON GENNARO: Right.

14 DANA KUZNETZKOFF: company will come and
15 fill it up, so we take care of... [interpose]

16 CHAIRPERSON GENNARO: And that would be...
17 and that would be a scenario where, you know b-5
18 would be very available, whereas if you have the kind
19 of generator setup where the generator's gonna leave
20 the site in search of a fueling station... [interpose]

21 STUART SUNA: Correct, which is what we...
22 [crosstalk]

23 DANA KUZNETZKOFF: Yes.

24 CHAIRPERSON GENNARO: this is... this is...

2 STUART SUNA: on commercial production
3 what it almost always does... [interpose]

4 DANA KUZNETZKOFF: Right.

5 STUART SUNA: And also... [crosstalk]

6 CHAIRPERSON GENNARO: So...

7 STUART SUNA: even also on independent
8 film; you were talking about large budget feature
9 films, it's a whole crew; they show up, but I mean a
10 lot of the smaller independent features, they're also
11 very mobile, like a commercial production and they
12 move around a lot... [interpose]

13 CHAIRPERSON GENNARO: Right. And so it
14 is fair to say that it's very frequent that these
15 generators that are on site will, you know, have to
16 physically go to like a filling station and then, you
17 know return to the production site or... or go around...
18 [crosstalk]

19 STUART SUNA: The answer's yes; I guess I
20 have a question... and if I'm allowed to ask questions,
21 which is, right now... [interpose]

22 CHAIRPERSON GENNARO: I don't encourage
23 it; I don't encourage questions... [crosstalk]

24

25

2 STUART SUNA: right... right now; how ma...
3 how many of these b-5 filling stations are there on...
4 in Manhattan and each of the boroughs...? [crosstalk]

5 CHAIRPERSON GENNARO: Yeah, I mean we'll...
6 we'll... [crosstalk]

7 [background comments]

8 STUART SUNA: There's one in Manhattan...
9 [crosstalk]

10 CHAIRPERSON GENNARO: that will be a
11 question that I will pose to the providers...
12 [interpose]

13 STUART SUNA: So that's why I come back
14 to the availability... [crosstalk]

15 CHAIRPERSON GENNARO: Yeah, yeah, yeah,
16 yeah.

17 STUART SUNA: we don't wanna... we don't
18 wanna stall the growth of this business... [interpose]

19 CHAIRPERSON GENNARO: No. It's me...
20 [crosstalk]

21 STUART SUNA: I... I... that's what I meant...

22 CHAIRPERSON GENNARO: it... it... it's Jim...
23 it's Jim, so I... you know I wanna... I'm the kinda guy
24 that, you know I'm... and even though I am the
25 environmental guy, I'm probably the most business-

2 friendly member... I mean other than my very business-
3 friendly members of the Council; I've gotta watch
4 what I say; I'm in the company of other members who
5 are... who love business and what it does...

6 [laughter]

7 CHAIRPERSON GENNARO: I mean, so I think
8 the three of us are very, you know, very, very
9 business-friendly council members and I think I
10 showed my stripes a couple years ago when this came
11 up and I said this just isn't fair and would be... you
12 know, we can't gouge this industry 'cause that's what
13 we'd be doing and I didn't wanna do that and it
14 didn't happen, but I'm just tryin' to get, you know
15 the best information, so it is... not to belabor it,
16 but it's very common for... is what you're saying... for
17 these generators to have to go in search of fuel;
18 like they have to go to a filling station to get...
19 [interpose]

20 STUART SUNA: Right.

21 CHAIRPERSON GENNARO: to get filled up
22 and that happens all the time. Okay.

23 JANE NUNEZ: And commercials.

24 CHAIRPERSON GENNARO: Yeah, you have to
25 speak into the microphone.

2 JANE NUNEZ: That's the only way that it
3 happens in commercials.

4 CHAIRPERSON GENNARO: Okay. And...
5 [interpose]

6 STUART SUNA: And the other question,
7 just something you said before; maybe it's not a
8 question; a statement, but you also mentioned as far
9 as how the city gives the permits because it's on
10 city streets...

11 CHAIRPERSON GENNARO: Right.

12 STUART SUNA: then again; been in the
13 construction business; a lot of times generators are
14 sitting on the city streets and also just watching
15 New York City DOT repave my street last night, there
16 was generators; all kinds of equipment, so does the
17 city expect their own equipment that's out there in
18 the public domain to also be using the same b-5 and
19 if so, then it becomes more readily available?

20 CHAIRPERSON GENNARO: Right. Right. I,
21 you know, don't know the answer to that question, but
22 it's a fair question, which is why I don't really
23 encourage questions, you know, so...

24 [laughter]

2 CHAIRPERSON GENNARO: so... with that said,
3 it's been a wonderful panel; I didn't... don't
4 ordinarily mix up pros and cons in the same panel,
5 but I'm very delighted to have you here and get the
6 benefit of your views; I'm a fair guy, and you know,
7 I thank all of you for what you do for the economy of
8 this great city. Okay. Okay. Thank you.

9 And now I will read my note that says,
10 tell Stuart to give my best to Alan. Okay, so that's
11 on the record. Okay.

12 The next panel, Russell Sagerman, I
13 believe, Feature Systems AICP, John Ford, Motion
14 Picture Studio Mechanics, James Fanning, Teamsters
15 Local 817.

16 And I want to just, you know, thank the
17 people in the energy business who are, you know
18 waiting long to give their testimony, so the next
19 panel will be the people who are in the industry,
20 Scott Hedderich, from REG, Dan Gianfalla, I believe,
21 United Metro Energy, John Maniscalco, of New York Oil
22 Heating Association, Shelby Neal and Dehran Duckworth
23 of Tri-State Biodiesel; that'll be the next and last
24 panel; I thank you guys for your patience, but I
25 thought to put you last would you give you the

2 ability to kind of really answer some of the stuff
3 that came up in testimony before you got there.

4 And so with that said, I welcome this
5 panel; I thank you for being here; I'll have the
6 Counsel of the Committee swear you in; then we can
7 proceed.

8 COMMITTEE COUNSEL: Can you raise your
9 right hand, please? Do you swear, affirm to tell the
10 truth, the whole truth and nothing but the truth
11 today?

12 MALE VOICE: I do.

13 CHAIRPERSON GENNARO: Thank you and if
14 there are any prepared statements we can have them,
15 but if you have no prepared statements, I'm just, you
16 know, willing to entertain your testimony. And so
17 why don't we start from my left to my right and sir,
18 I'm not... I read the names, but I'm not quite sure
19 which one you are, so...

20 RUSSELL SAGERMAN: My name's Russell
21 Sagerman and I am the Technical Director for Feature
22 Systems; we... [interpose]

23 CHAIRPERSON GENNARO: If you'll hold the
24 mic a little closer; I should've done...

2 RUSSELL SAGERMAN: we're a motion picture
3 and television equipment rental company... [crosstalk]

4 CHAIRPERSON GENNARO: Right. So you guys
5 would rent...

6 RUSSELL SAGERMAN: We rent the
7 generators; that's correct... [crosstalk]

8 CHAIRPERSON GENNARO: generators. Good.

9 RUSSELL SAGERMAN: I've been in the
10 motion picture industry from the technical
11 perspective for 34 years now. Feature Systems is a
12 very focused company on environment and we spent
13 close to a million dollars in the last five years in
14 replacing equipment with the latest tiered diesel
15 engines to be as sound as we can be and as green as
16 we can be.

17 One thing I want to clarify; the last
18 panel spoke about the differences between motion
19 picture production, feature film production...
20 [interpose]

21 CHAIRPERSON GENNARO: Right.

22 RUSSELL SAGERMAN: and commercial
23 production; I just wanna clarify that the big
24 difference from the layman's perspective... [interpose]

25 CHAIRPERSON GENNARO: Right.

2 RUSSELL SAGERMAN: is that a major motion
3 picture can have between 20 and 30 vehicles on one
4 location, so that it's very economical for them to
5 hire a fuel company to come with a tanker and fill
6 the tanks of every vehicle that will take the diesel
7 fuel. A commercial production, as Mr. Suna said
8 before, could be one or two vehicles and there's no
9 way that we can go out on a production on location
10 and then come back to the barn with a vehicle that's
11 not full. So for us the logistics... [interpose]

12 CHAIRPERSON GENNARO: Right.

13 RUSSELL SAGERMAN: of doing that are not
14 possible; they're just not practical, I should say,
15 to have... [crosstalk]

16 CHAIRPERSON GENNARO: To have the fuel
17 come to you?

18 RUSSELL SAGERMAN: fuel delivered to
19 locations.

20 CHAIRPERSON GENNARO: Right.

21 RUSSELL SAGERMAN: In addition, I will
22 tell you that, yes, there are retrofits that would
23 have to be done to older vehicles. Biodiesel
24 basically acts as a solvent and breaks down not only
25 the sediment that's created by even ultra-low sulfur

2 diesel fuel, but also breaks down nonferrous metals,
3 fittings and pipes that are either copper or brass,
4 even pipes that are not stainless steel; not only
5 that; it acts as a solvent against rubber in Buna
6 type seals and gaskets in the fuel system.

7 So basically we... [crosstalk]

8 CHAIRPERSON GENNARO: We're just talking
9 about the generator; not the truck, right?

10 RUSSELL SAGERMAN: Of course... [crosstalk]

11 CHAIRPERSON GENNARO: Yeah, the gener...

12 RUSSELL SAGERMAN: Yes, we're talking
13 about the generators, because that's what the issue
14 is... [crosstalk]

15 CHAIRPERSON GENNARO: Right. Yeah, yeah;
16 that's what it is. Yep. Yep.

17 RUSSELL SAGERMAN: So basically what it's
18 doing is, for equipment that is extremely, extremely
19 reliable, because the last thing you wanna do is have
20 a production going on and then all of a sudden it
21 goes dark, because that's what happens when the
22 generator fails. You're taking a piece of equipment
23 that is extremely reliable and becoming something
24 that is not reliable and the reputation of our
25 companies and our company's equipment is gonna take a

2 big hit for that reason and you know we've seen
3 production leave New York for various reasons,
4 whether it's tax abatement or something else, this
5 is, in our view, just another reason for production
6 companies to find someplace else to work.

7 So just to wrap up quickly, it's a
8 mechanical nightmare for us to have to say that we
9 have to put biodiesel in every generator that we run.
10 It would cost time and a lot'a money. We would love
11 to and welcome that if we knew that we could get the
12 fuel readily. And just so you know, the ability...
13 [interpose]

14 CHAIRPERSON GENNARO: Yeah, but... but... but
15 you just said that the fuel itself causes issues for
16 the equipment... [crosstalk]

17 RUSSELL SAGERMAN: The fuel does cause
18 issues and what we've seen... we've done tests and what
19 we've seen is that you could run a 100 gallons of
20 biodiesel through a generator and it could fail a
21 half-a-dozen to 10 times, because of filter blockage
22 and line clogage, and it could be in the second
23 hundred gallons or the third hundred gallons that you
24 finally get a process that's gonna work, until it
25 fails for another reason. And as Mr. Suna said

2 before, it's the older generators that we have; it's
3 not the ones that have the tier-four engines and are
4 the latest technology; it's the ones that have been
5 running for five to 10 years.

6 CHAIRPERSON GENNARO: Right.

7 RUSSELL SAGERMAN: However, it's still a
8 viable... [interpose]

9 CHAIRPERSON GENNARO: Right.

10 RUSSELL SAGERMAN: reliable piece of
11 equipment. So the availability is probably the
12 biggest issue; we don't wanna sit here and cry that
13 it's gonna cost us x amount of dollars to refine our
14 equipment, because yeah, that's the fact and if we
15 wanna be as advocative of... [interpose]

16 CHAIRPERSON GENNARO: Right.

17 RUSSELL SAGERMAN: of the environment,
18 then that's what we have to do and we understand
19 that, but to not make it... to not have it be available
20 is... is a really difficult thing for us. And then
21 production is gonna pay for it, because if we have to
22 pay, you know, people to drive our vehicles however
23 further away from where we normally fuel up, it's
24 gonna cost on the clock to do that, so that's the
25 main point; it's gotta be more available.

2 CHAIRPERSON GENNARO: And this is why
3 when I... when I had the conversation with some of the
4 people yesterday who are in the business, I said I
5 would really like to hear from a guy who's like in
6 the business of providing the generators and..
7 [interpose]

8 RUSSELL SAGERMAN: Right.

9 CHAIRPERSON GENNARO: this is the kind of
10 testimony that you're giving, which is very important
11 for me to hear.

12 RUSSELL SAGERMAN: Thank you.

13 CHAIRPERSON GENNARO: Did you have
14 anything further?

15 RUSSELL SAGERMAN: No, but thank you for
16 the opportunity... [crosstalk]

17 CHAIRPERSON GENNARO: 'Kay. Sure, you
18 bet, you bet. And... okay, that's Russell and the next
19 one is either John or James.

20 JOHN FORD: John Ford... [interpose]

21 CHAIRPERSON GENNARO: John, okay.

22 JOHN FORD: Mr. Chairman, thanks for the
23 opportunity to speak; I'll be brief... [interpose]

24 CHAIRPERSON GENNARO: Yeah, just... just...
25 put your full name on the record... [interpose]

2 JOHN FORD: Yeah, my name is John Ford;
3 I'm president of Local 52, which is the Motion
4 Picture Studio Mechanics; my union represents, along
5 with the teamsters, the bulk of the crew, grip,
6 electric, props, sound, special effects; things of
7 that nature. The men and women of my electric
8 department are the one who actually run the
9 generators and initially, when I got this
10 legislation, I sent it out to them for their opinion;
11 I'm a prop man; I carry heavy furniture around for a
12 living. But initially they came back and they said
13 no, they had no objections to it and basically
14 that's... most of it's what they're usin' now, but I
15 did become aware of the potential supply disruption
16 in the fuel and that's what... why I'm here, just to... I
17 object to it strictly for that reason; I think it's a
18 good, you know, for the environment and I support it
19 in that regard, but to the extent that there is gonna
20 be or may be any disruptions in the supply chain,
21 that's gonna cause a big problem. That's the extent
22 of my testimony. Thank you... [interpose]

23 CHAIRPERSON GENNARO: Thank you; that's
24 very much to the point and I think brevity's a
25 quality that I should try to develop, you know...

2 COMMITTEE COUNSEL: [laughter]

3 CHAIRPERSON GENNARO: particularly as I
4 get older and I'm sort of running out of time, you
5 know, and so... thank you, Mr. Ford, for your
6 perspective and that means you have to be James
7 Fanning, 'cause... [crosstalk]

8 JAMES FANNING: I am.

9 CHAIRPERSON GENNARO: that's... Okay.

10 JAMES FANNING: I am indeed. James
11 Fanning, Vice President of Theatrical Teamsters Local
12 817. I also work on movie sets, some of the bigger
13 jobs we've done lately here and we've had, you know
14 10 to 15 generators on a movie set on any given
15 occasion; Spider Man, for instance, there were
16 generators all over the place and we have our own
17 fuel trucks, which are constantly, all day long
18 refueling the generators on the sets; we're going to
19 the local stations back and forth, closest ones to
20 the set all the time.

21 CHAIRPERSON GENNARO: Oh... oh so... so... so
22 the fuel that's coming to the set... [interpose]

23 JAMES FANNING: Uhm-hm.
24
25

2 CHAIRPERSON GENNARO: is not coming from
3 some oil depot; it's not coming from fuel depot; it's
4 coming from... so... [crosstalk]

5 JAMES FANNING: On a regular...

6 CHAIRPERSON GENNARO: so somebody's
7 filling up at a... somebody's filling up like a big
8 canister or whatever and then it... then... [interpose]

9 JAMES FANNING: Basically a 100-gallon
10 tank in a stake bed type of a truck or a pickup
11 truck... [interpose]

12 CHAIRPERSON GENNARO: Right.

13 JAMES FANNING: type of thing with a pump
14 on it and we'll go to Sonoco... [interpose]

15 CHAIRPERSON GENNARO: Right.

16 JAMES FANNING: get the low-sulfur...
17 [interpose]

18 CHAIRPERSON GENNARO: Yeah. Yeah.

19 JAMES FANNING: diesel and come and
20 disperse it and the equipment, you've seen some of
21 these movies that, the stuff is all over the place..

22 CHAIRPERSON GENNARO: Right.

23 JAMES FANNING: to have a private company
24 come and deliver it, we'd have the driver there all
25 day, going from place to place; he might as well be

1
2 our employee, so whether it's readily available or
3 not, the likelihood that they could dedicate a driver
4 to us for the time it takes to fill all of our
5 different needs... [interpose]

6 CHAIRPERSON GENNARO: Right.

7 JAMES FANNING: different placements of
8 generators and what not. So we believe that it's
9 going to biodiesel at some point... [interpose]

10 CHAIRPERSON GENNARO: Yeah.

11 JAMES FANNING: we feel that the
12 availability of it is something that's troublesome to
13 us and that when you're using biodiesel in a
14 generator you can put regular diesel in there if you
15 are short of biodiesel, but if it is the law that we
16 have to use biodiesel and only biodiesel, we don't
17 have an ace in the hole to go to that station quick
18 and get a 100 gallons 'cause we're pulling my power
19 out of this generator and we need more.

20 So that would be breaking the law, I
21 assume, if we have to use biodiesel, you know
22 exclusively... [crosstalk]

23 CHAIRPERSON GENNARO: Yeah, well it... it
24 would be a requirement.

2 JAMES FANNING: So even on Mari Jo's
3 jobs, which I know she has the biodiesel reputation
4 and I've worked on many jobs where... Sony and
5 Paramount are very, very green-friendly and promote
6 it and want you to use it; you always have, whether
7 Mari Jo knows it or not, if they ever ran into a
8 problem, you go put regular diesel into that machine
9 and you know...

10 CHAIRPERSON GENNARO: Yeah.

11 JAMES FANNING: that's just like a thing.
12 And now, what that does for the producers; why give..
13 some of these movies on a razor thin margin are
14 either going to Atlanta or to New Orleans or to
15 Massachusetts to film for one little aspect or
16 another; I'd had to give them a reason to maybe doubt
17 for a second something that we can do anything here,
18 because of the availability of the fuel being a
19 possible problem; also the temperature, when it goes
20 below 32 degrees, the clouding of the fuel becomes an
21 issue that we don't really know and the science isn't
22 really settled on what happens when the temperatures
23 drop to extremes, as far as the reliability of the
24 generators... [interpose]

25 CHAIRPERSON GENNARO: Right.

2 JAMES FANNING: So you're putting out
3 another risk that we don't believe with the business
4 flourishing the way it is, with all the help the
5 city's given us and everything..

6 CHAIRPERSON GENNARO: Right.

7 JAMES FANNING: it's a tough thing
8 without every tool that we could use, meaning, use
9 the biodiesel as applicable or where applicable, but
10 not as the law..

11 CHAIRPERSON GENNARO: Right.

12 JAMES FANNING: per se I think would
13 help.

14 CHAIRPERSON GENNARO: Well that's.. Yeah,
15 I just wanted to get the perspective of people who
16 really, you know, work with the generators first hand
17 and transport them or fuel them, who.. you know,
18 people who are, you know in the generator business
19 and this panel has provided that valuable
20 perspective.

21 RUSSELL SAGERMAN: May I uh..

22 CHAIRPERSON GENNARO: Sure, sure; go
23 ahead. Yeah.

24

25

2 RUSSELL SAGERMAN: Just from an
3 engineering standpoint, just so you... I'm not sure...
4 you may know this and I don't mean to... [crosstalk]

5 CHAIRPERSON GENNARO: No; go ahead.

6 RUSSELL SAGERMAN: step on your feet; the
7 gelling effect, which is what we were just talking
8 about, of biodiesel fuel, is at least 10 to possibly
9 20 degrees higher than regular low-sulfur diesel fuel
10 and in addition, basically low-sulfur diesel fuel is
11 the same as No. 2 heating oil...

12 CHAIRPERSON GENNARO: Right.

13 RUSSELL SAGERMAN: So the difference
14 between the application of using it in... as heating
15 oil and as either a truck or a generator use is that
16 heating oil systems in a building preheat the fuel
17 and that gives them the opportunity to not have a
18 gelling effect; they're not outside and moving around
19 like our equipment is and... [crosstalk]

20 CHAIRPERSON GENNARO: Yeah; I mean when
21 we...

22 RUSSELL SAGERMAN: and it's a problem
23 when we get to those temperatures no matter what,
24 because we don't have the availability to preheat the
25 fuel to get it out... [interpose]

2 CHAIRPERSON GENNARO: Well the city has
3 done very well with its trucks in cold weather; we're
4 doing a... we're doing a cold weather... some of the
5 city's trucks use b-20 when it's really, really
6 freezing and they figure out how to do it, but I... but
7 again, that's a truck and you know we're talking
8 about a... I guess even though it's a diesel engine,
9 like a different piece of apparatus, which is a
10 generator; I don't, you know pretend to be a
11 technical pro here; I just want to, you know get the
12 best information that I can so I can make an informed
13 decision and... and the testimony from this panel has
14 been, let us say very compelling, so you know, you
15 did good, you know, so... yeah, thank you, thank you;
16 I... [crosstalk]

17 [background comments]

18 RUSSELL SAGERMAN: Thank you.

19 CHAIRPERSON GENNARO: appreciate that.

20 And I just wanna make sure there... Okay, we... who... so
21 we've got Gerry here from the Mayor's Office; who
22 else is here from the Administration, who I saw in
23 the audience; we got... we got Ger... we got the... is the
24 movie guy still here, the Mayor's Office of Film?

25 [background comment]

2 CHAIRPERSON GENNARO: He left? Okay.

3 [background comment]

4 CHAIRPERSON GENNARO: Yeah. Okay, but
5 we... Okay, we've got Gerry, okay, I just... always like
6 to check in and make sure the Administration is
7 still, you know in the house.

8 And you know what; I have to step out for
9 60 seconds and only 60 seconds and in that time the
10 Counsel for the Committee will call up the next panel
11 and I'll be right back and time me.

12 COMMITTEE COUNSEL: Dehran Duckworth.
13 Shelby Neal. John Maniscalco. Dan Gianfalla and
14 Scott Hedderich. Have any comments please.

15 [background comments]

16 Gentlemen, in the interest of time, can
17 you please raise your right hand? Do you swear,
18 affirm to tell the truth, the whole truth and nothing
19 but the truth today?

20 [collective I do]

21 COMMITTEE COUNSEL: Thank you.

22 [pause]

23 [background comments]

24 CHAIRPERSON GENNARO: Bill, if you could
25 just run out into the hall and indicate those people

2 from the production industry if they wanna, you know
3 hear the testimony of people from the industry, which
4 I would invite them to do that and so if you can
5 invite them in and so... and I just want as many people
6 to hear your testimony as possible. Watch this...

7 [background comments]

8 CHAIRPERSON GENNARO: I just wanted to
9 pack the room and get... you know, get some fannies in
10 the seats and see the show and uh... So the panel's
11 been sworn and... Okay, why don't we do it the same way
12 we did it last time, from my left to my right, so I
13 guess that'd be Mr... Mr. Duckworth, you're up.

14 DEHRAN DUCKWORTH: Hi, my name's Dehran
15 Duckworth from Tri-State Biodiesel; I wanted to thank
16 Mr. Gennaro and the Council for hearing this and all
17 the hard work you've put into this over the years.

18 Tri-State Biodiesel's a local biodiesel
19 company; we've been delivering biodiesel on-set and
20 on-site for almost seven years now, for a number of
21 different applications, including generators and
22 trucks. We always try to push the envelope and work
23 with higher blends, so we generally work a b-20,
24 which is where we'd like to see this kind of mandate
25 go, but the b-5's a good stepping stone to get there.

1 But based on our experience over the last seven years
2 of delivering on-site and in all kinds of weather,
3 we've found no issues with b-20 whatsoever in any
4 equipment, just from our point of view...

5 CHAIRPERSON GENNARO: Right. And we...
6 also, you're talking mostly about the, you know,
7 heating oil and is... [interpose]

8 DEHRAN DUCKWORTH: No, I'm talking about
9 trucks and generators; we work with a lot of
10 production companies and... [crosstalk]

11 CHAIRPERSON GENNARO: Oh I see. Okay.

12 DEHRAN DUCKWORTH: deliver on-site all
13 over the city.

14 CHAIRPERSON GENNARO: Yeah, so when... so
15 when they comment... just so... 'cause there are people
16 here from the production industry and people here
17 from the Administration and they're you know
18 concerned about both bills, so just so you know...
19 [interpose]

20 DEHRAN DUCKWORTH: Right. So... so we... we
21 do that as well, we do the heating oil as well; I
22 figured I'd start it off on that foot... [interpose]

23 CHAIRPERSON GENNARO: Right.

2 DEHRAN DUCKWORTH: but we do the... the
3 heating oil as well; we deliver everything from b-20
4 up to b-100, so we do actually handle b-99.9
5 throughout the winter for heating oil purposes and
6 again, that is only really suitable for buildings and
7 enclosed tanks... [crosstalk]

8 CHAIRPERSON GENNARO: Yeah.

9 DEHRAN DUCKWORTH: et cetera, so this...
10 we're talking about b-5 at this point.

11 Basically I wanted to throw a few bullet
12 points out there.. (CROSS-TALK)

13 CHAIRPERSON GENNARO: Sure.

14 DEHRAN DUCKWORTH: and I'm sure that the
15 gentlemen to my left will probably have similar
16 points to make. But to open, using biodiesel reduces
17 air pollution and it supports the domestic industry
18 and creates jobs, so clean air, job creation and
19 domestic industry are important components of a
20 healthy environment and community.

21 Biodiesel is the only alternative energy
22 to have completed an emissions evaluation by the EPA,
23 it's the only advanced biofuel to reach the market to
24 be considered as such, which would be a reduction in
25

2 emissions by 50 percent or more, so ethanol is not to
3 be confused with biodiesel, as... [interpose]

4 CHAIRPERSON GENNARO: Right.

5 DEHRAN DUCKWORTH: we pointed out
6 earlier, which has not met those requirements.

7 All original equipment manufacturers,
8 which would be OEMs, now support the use of b-5
9 biodiesel in all original unmodified diesel
10 equipment, such as those used for generation of
11 electricity, heating of buildings and transportation;
12 that would also extend retroactively to older
13 equipment; there's no such thing as newer equipment
14 being more suitable to run a b-5 blend than older
15 equipment.

16 The American Society of testing and
17 materials, ASTM, designates any blend of biodiesel up
18 to 5 percent meeting the ASTM designation of 6751,
19 blended with diesel fuel, meeting the ASTM
20 designation of 975 for equipment and transportation
21 or D396 for heating oil shall be considered
22 respectively ASTM D975 grade diesel fuel for
23 transportation and off-road equipment and use as ASTM
24 D396 for heating oil; no change in designation. In
25 other words, up to 5 percent the ASTM doesn't even

2 recognize it as something other than diesel, normal
3 diesel, so this... this is... [interpose]

4 CHAIRPERSON GENNARO: I see.

5 DEHRAN DUCKWORTH: So there's no going..
6 going forward the Federal Trade Commission had
7 amended a rule recently, and the details are in the
8 testimony, regarding the rules to specify... at what
9 point you have to specify that the fuel is even... that
10 biodiesel's even in the blend, which is 5 percent or
11 more.

12 So the point of that story is that all
13 diesel available today at wholesale terminals and
14 filling stations most likely does contain already 5
15 percent biodiesel; whether we realize it or not we
16 have most likely been running b-5 in all of our
17 equipment without really realizing it up to this
18 point, because nobody's legally beholden to label it
19 as such.

20 Blending is now occurring at the pipeline
21 level or directly at local terminals with limited to
22 no disclosure. At any given moment there millions of
23 gallons of biodiesel available in the New York
24 Harbor, which arrives every day by barge and rail,
25 making availability questions a non-issue.

2 B-5 biodiesel, which is still D975,
3 technically, is available universally to all licensed
4 diesel distributors and in most cases consumers at
5 the same price as conventional diesel fuel, switching
6 to b-5 or compliance with a mandate is as asking your
7 fuel supplier to provide b-5 diesel and/or
8 documentation of the existing biodiesel content of
9 fuel currently being used for compliance purposes.

10 Biodiesel blends in any amount are also
11 proven and effective lubricity additive which will
12 prolong the life of any diesel engine as well as
13 boost the cetane level, increasing overall
14 performance.

15 Biodiesel blends up to 20 percent are
16 cold weather safe for usage and storage as long as
17 the biodiesel portion meets the ASTM D6751
18 specification and are not produced from animal fats
19 or tallow.

20 Storage and handling recommendations for
21 blends up to 20 percent b-20 are the same as
22 conventional diesel.

23 In summary, the mandated use of b-5
24 biodiesel will not increase the cost of the fuel, it
25 will not limit the availability of the fuel, it will

1
2 not create the need for expensive modifications to
3 equipment, it will not require our consumer to look
4 beyond their existing supplier and a b-5 blend will
5 not harm or damage existing equipment.

6 CHAIRPERSON GENNARO: Thank you. Thank
7 you. I'll try to stick to my regular policy of just
8 hearing from the panel; then posing questions, but
9 thank you Mr. Duckworth. And Shelby; where are ya?
10 Right here. Okay. Just state your name for the
11 record and... and again, we're, you know, talking about
12 the two bills, of course, and you know, the Oversight
13 portion of the hearing where we're seeing how the b-2
14 has gone and you know, looking towards maybe putting
15 something in the b-5 city heating oil bill that will
16 mandate that the Administration do a study to report
17 back to us and so any thoughts that anybody had you
18 know regarding that if you want you can blend that
19 into your testimony.

20 SHELBY NEAL: Okay; be glad to Mr.
21 Chairman... [interpose]

22 CHAIRPERSON GENNARO: Yeah. Nice to see
23 you, Shelby.

24 SHELBY NEAL: Thank you; you too, sir.
25

2 Good afternoon, Mr. Chairman, members of
3 the Committee; I appreciate the opportunity to
4 testify today on two important pieces of legislation
5 and also provide my perspective on implementation of
6 the citywide b-2 bioheat requirement.

7 My name is Shelby Neal; I serve as the
8 Director of State and Local Governmental Affairs for
9 the National Biodiesel Board, NBB is the trade
10 association that represents the nation's biodiesel
11 and renewable diesel production facilities, marketers
12 and feedstock producers.

13 Biodiesel is a renewable diesel
14 replacement fuel that's been designated as advanced
15 biofuel by the U.S. EPA, which means that all forms
16 of biodiesel have a greenhouse gas reduction of at
17 least 50 percent and as high as 80 percent, fuels
18 made from byproducts and co-products of other
19 industries, such as agricultural oils, fats and waste
20 greases. Biodiesel's refined to meet a specific ASTM
21 International consensus fuel specification and
22 decreases harmful emissions in space heating
23 applications typically by at least 50 percent.

24 Currently more than 150 biodiesel plants
25 exist in the U.S., 12 of which are in this region

2 with a combined production capacity of approximately
3 3 billion gallons and 120 billion gallons in this
4 region. This year the industry's expected to produce
5 a record 1.7 billion gallons of biodiesel from
6 sustainable domestic sources.

7 As you know, the City of New York has
8 been a leader on alternative fuels and biodiesel
9 issues for years, City passed and implemented the
10 first citywide uniform standard for bioheat last year
11 and even before implementation of that policy, New
12 York was the largest municipal user of biodiesel,
13 with most vehicles and buildings using low to mid-
14 level biodiesel blends year round. New York City has
15 been a true pioneer on alternative fuels, leading the
16 way for others around the country.

17 With regard to the legislation being
18 heard today, the first bill, Intro 1047 would require
19 b-5 in all city-owned buildings; the bill would also
20 institute a pilot program requiring 10 percent of
21 heating oil in city-owned buildings to use b-10.

22 It's my understanding that the
23 administration's been using b-5 in all city-owned
24 buildings for some time and that they've been very
25

2 pleased with the results, encountering very few
3 issues, if any.

4 In our view, codifying this policy and
5 law would be a highly worthwhile endeavor.

6 Similarly, the Administration's been a leader in
7 using higher blends, such as b-10 and b-20 in city-
8 owned facilities. While most of this use is already
9 occurring, a formal study with published results
10 would be highly beneficial in terms of paving the way
11 for higher blend levels being used in developing a
12 formal b-6 to b-20 ASTM heating oil specification.

13 Second bill, Intro 705 would require b-5
14 in generators used for filming and street fairs.
15 Given the generators' proximity to the public and the
16 fact that biodiesel is effective at reducing harmful
17 particulate emissions, we see this as a sound public
18 health initiative.

19 With respect to supply issues, obviously
20 this concern very recently came to my attention, so I
21 did have time to contact two suppliers; one of whom
22 said that they have b-5 blends at two-thirds of their
23 terminal facilities, another that they have b-5 at
24 all of their facilities, both of whom would be happy
25

2 to deliver on site to anywhere in the metro area, any
3 blend level, any number of gallons.

4 So but to the larger question of how to
5 balance the convenience of the film industry with the
6 public health benefits, certainly I would feel
7 comfortable leaving that to the members of the
8 Committee to determine.

9 Finally I'd like to comment on
10 implementation of the 2 percent bioheat mandate,
11 which of course the chairman of this Committee
12 authored. Our organization is very fortunate to have
13 an excellent relationship with the city's heating oil
14 dealers who sell fuel to home and building owners and
15 service and maintain the space heating equipment;
16 these companies to an excellent job for their
17 customers and they've been great partners to work
18 with.

19 In my regular communications with members
20 of their industry I've yet to learn of a single
21 documented problem with biodiesel; this is one reason
22 I believe the city's oil heat dealers are supportive
23 of the current policy, as are we, of course. Another
24 is their dedication to providing the absolute
25 cleanest, best available products to their customers.

2 Moving forward, we believe increasing the
3 requirement to 5 percent is a logical next step;
4 biodiesel prices are attractive, they've been less
5 nearly every month at the wholesale level in the
6 harbor for two years. Warranty statements and
7 material compatibility are not issues with b-5; an
8 ASTM specification exists that includes b-5 and the
9 environment and public health benefits of b-5 are
10 obviously two-and-a-half times greater than that of
11 b-2.

12 In short, we cannot see even a minor
13 reason why the city should not move forward to b-5
14 when the Council and our partners and allied
15 industries are prepared to do so.

16 With higher blends, however, such as b-10
17 and b-20 it may be advisable to delay moving forward
18 until a major research product sponsored by the
19 National Biodiesel Board and the National Oil Heal
20 Research Alliance has been completed. The result of
21 this project, which is a comprehensive multi-million
22 dollar study, will form the basis of a new ASTM
23 specification for b-6 to b-20 bioheat blends and will
24 ultimately allow all parties to move forward together
25 with complete confidence.

2 Again, the National Biodiesel Board is
3 pleased to support the legislation being considered
4 today; as I mentioned previously, while the City's
5 fortunate to have an environmentally conscious,
6 public health conscious city council, mayor and
7 professional staff, there simply is no guarantee that
8 this will always be the case; as such, we believe
9 that codifying in law and perhaps even expanding some
10 of the City's current environmentally friendly
11 practices offer substantial value to the citizens of
12 the City of New York and future generations.

13 Thank you, Mr. Chairman for your
14 continued leadership and for allowing me to be here
15 today.

16 CHAIRPERSON GENNARO: Thank you Shelby,
17 it's always a pleasure to have you here in town and
18 to hear the... you know, get the benefit of your views
19 and like I said, I'll come back to everyone on the
20 panel and pose some questions. And John, you're up;
21 just state your name for the record; proceed with
22 your testimony and I think that Shelby was talkin'
23 about you during that paragraph where you, you know
24 went on about the industry and, you know and your
25

2 leadership and so thank you, thank you for that...

3 [crosstalk]

4 JOHN MANISCALCO: Thank you. Thank you.

5 Good afternoon Chairman Gennaro and members of the
6 Environmental Protection Committee; my name is John
7 Maniscalco and I am the CEO of the New York Oil
8 Heating Association, New York City's primary heating
9 oil trade association that has been advocating on
10 behalf of heating oil terminals, retailers and
11 heating oil-associated businesses for over 74 years.
12 Our members for the most part are independent family-
13 owned businesses located throughout the five
14 boroughs.

15 Thank you for the opportunity to testify
16 on Intro 1047, which requires that all heating oil
17 sold to city-owned buildings contain at least 5
18 percent biodiesel starting this fall. NYOHA supports
19 the measure to bring all city-owned buildings up to a
20 minimum of b-5 heating oil blend or higher.

21 Today heating oil in New York City is
22 already by far the cleanest heating oil sold anywhere
23 in the United States. In 2010 Mayor Bloomberg signed
24 an air quality bill that included the bioheat
25 provision which required heating oil in all buildings

2 be blended with at least 2 percent biodiesel. NYOHA
3 and its members strongly supported the bioheat fuel
4 standard, having already been at the industry
5 forefront of embracing and promoting bioheat. We
6 have worked very closely with the City, the Mayor's
7 Office, you Chairman Gennaro and others to ensure
8 that our member's companies and their customers
9 recognize the many benefits of bioheat.

10 Today we are proud to say that one year
11 after the b-2 fuel standard was implemented bioheat
12 has had a tremendous positive effect on New York
13 City. Bioheat's usage has already increased
14 dramatically, even beyond the b-2 requirement. That
15 legislation, Local Law 43, is having a significant
16 impact on improving air quality in New York City,
17 enhancing green job creation, encouraging energy
18 independence and supporting local businesses.

19 While enthusiastic about the b-5 standard
20 in Intro 1047, we would like some clarification on
21 when the City plans to commence the requirement. The
22 October 13th start date in the bill has already
23 passed, which you had mentioned; moreover, the
24 industry seeks clarification on how existing heating
25 oil contracts with the City will be affected by new

1 standards, as many of our members maintaining
2 existing contracts with the City would likely bid for
3 new City contracts. For example, will the b-5
4 standard be implemented retroactively or start with
5 new contracts?
6

7 While we are aware that biodiesel has
8 proven successful in several different blend levels
9 in all heating oil grades, we also know that the
10 industry standards set by the American Society for
11 Testing and Materials, known as ASTM, have somewhat
12 lagged behind industry practice; ASTM currently has a
13 spec for b-5 bioheat and as a result, most of the
14 large heating oil equipment manufacturers in the
15 country now warranty bioheat equipment up to b-5.
16 The industry eagerly awaits ASTM action on higher bio
17 blends.

18 Extensive testing has clearly shown that
19 biodiesel blended with traditional heating oil at
20 levels including b-20 is not only safe and seamless,
21 but actually improves fuel efficiency, helps clean
22 and preserve building equipment and reduced the need
23 for periodic heating system maintenance. In
24 addition, biodiesel is widely available and currently
25 costs the same or less than traditional heating oil,

1 making it a long-term, cost-efficient option for
2 consumers. Eventually we hope to be in a place where
3 b-20 becomes the industry standard.

4 I would like to conclude by saying that
5 this is an exciting time for the heating oil
6 industry, which like many other industries is seeing
7 the benefits of new developments and investments that
8 would create more sustainable, cleaner heating fuel.
9 Intro 1047 would build on the solid foundation
10 already established in New York City for the use of
11 biodiesel for heating purposes. Given biodiesel's
12 many benefits, the New York Oil Heating Association
13 endorses the adoption of Intro 1047. Thank you so
14 much for your time.

15 CHAIRPERSON GENNARO: Thank you. Thank
16 you very much, John; appreciate that. Mr. Gianfalla,
17 right?

18 DANIEL GIANFALLA: Yes.

19 CHAIRPERSON GENNARO: Please state your
20 name for the record and proceed... [crosstalk]

21 DANIEL GIANFALLA: Daniel Gianfalla,
22 United Metro Energy Corp. Good afternoon Chairman
23 Gennaro and members of the Environmental Protection
24 Committee. My name is Daniel Gianfalla; I'm
25

2 President of United Metro Energy Corporation. United
3 Metro Energy Corp. supplies and delivers gasoline,
4 ultra-low sulfur diesel, biodiesel, bioheat, heating
5 oil, and natural gas throughout the New York
6 Metropolitan Area, from terminals in Greenpoint,
7 Brooklyn, Riverhead, Long Island and Calverton, Long
8 Island.

9 We strongly support both Intro 1047,
10 related to bioheat in city-owned buildings, and Intro
11 705, that calls for biodiesel fuel in diesel-powered
12 generators used in the production of films,
13 television programs and advertisements and at street
14 fairs in New York City. These bills build on the
15 record of success that New York City has established
16 with the pioneering b-2, or 2 percent biodiesel, fuel
17 standard for heating oil in residential and
18 commercial buildings, as well as increasing biodiesel
19 standards for the City's fleet of vehicles.

20 According to the Mayor's recently
21 published report on air quality and the effect of its
22 innovative Clean Heat program, which includes a
23 strong emphasis on promoting bioheat and biodiesel,
24 New York City has already made vast strides in
25 improving air quality across the region. The b-2

2 fuel standard is estimated to have replaced 20
3 million gallons of fossil fuel with renewal clean
4 biodiesel this year alone. And according to City
5 Health officials, improved air quality is preventing
6 nearly 800 deaths and around 2,000 emergency room
7 visits and hospitalizations every year, compared to
8 2008.

9 The more biodiesel we use in buildings
10 and mobile generators, as well as other facilities,
11 the faster we can meet goals of improved air quality
12 in New York City and continue to lead the nation in
13 commitment to sustainable biofuels.

14 Intros 1047 and 705 not only address
15 critical environmental concerns but also help promote
16 job-producing and economy-stimulating green
17 industries such as the home-grown biodiesel industry.

18 Intro 1047, which requires all city-owned
19 buildings to use at least b-5, or 5 percent
20 biodiesel, in all of its heating oil contracts,
21 expands upon the City's existing b-2 fuel standard,
22 as it should. The City of New York can lead the way
23 toward higher use of bioheat by insisting on a b-5
24 standard in its own contracting. This is both
25 feasible and sensible, as thousands of heating oil

2 consumers throughout the State, including the City of
3 New York, already use blends at b-5 or above. Many
4 are now using b-20 blends. And, while the sponsors
5 of this bill are correct in staying at b-5, they are
6 also correct in instituting a b-10 pilot program.

7 Intro 705 requires biodiesel use in
8 generators that are routinely used on New York City
9 streets for filming movies, commercials and
10 television shows, as well as street fairs. These
11 activities enhance the economic and social life of
12 our city. Biodiesel is plentiful, affordable and can
13 easily become a standard for all film and television
14 productions throughout the country. If New York City
15 adopts this standard, as a major producer of
16 television and film, it will have great significance
17 nationwide.

18 United Refining, since acquiring
19 Brooklyn's Metro Terminals in 2013, is proud to build
20 on the pioneering role that Metro has played in the
21 advancement of biodiesel in New York City over the
22 last decade. United Metro is currently a major
23 blender and marketer of biodiesel, selling millions
24 of gallons of biodiesel to customers throughout the
25 region, large and small. In addition, United Metro

2 Energy is now tasked with completing one of the
3 largest advance biodiesel production and blending
4 facilities in North America with capacity up to a 110
5 million gallons per year; we are building it right
6 here in Brooklyn. The facility, which would be the
7 only one of its kind in New York City, will be
8 capable of accepting recycled restaurant grease,
9 algae and barged-in vegetable oil-based feedstocks
10 and then processing it into various blends of
11 biodiesel for distribution in the New York City
12 region. We stand ready to meet the biodiesel and
13 bioheat demands of the New York Metropolitan Area.

14 We support and thank this Committee for
15 your efforts in hearing these two bills that promote
16 clean, green biofuels, as well as sensible clean-air
17 policies. Thank you.

18 CHAIRPERSON GENNARO: Thank you Mr.
19 Gianfalla; I appreciate your testimony and the great
20 facility that you're establishing here in New York
21 City; very big stuff, big stuff. Scott, Scott
22 Hedderich.

23 SCOTT HEDDERICH: Thank you... thank you,
24 Chairman Gennaro. Appreciate the opportunity to be
25 here; I'm going to just mention a few things for my

1 testimony, as I think I'm the last and it's... it's
2 either getting close the dinner hour or happy hour,
3 depending on your point of view. So I'll deviate
4 from my testimony; just raise a few points towards
5 the end... [crosstalk]

7 CHAIRPERSON GENNARO: Yeah, you need... if
8 you just... if you just... [crosstalk]

9 SCOTT HEDDERICH: But...

10 CHAIRPERSON GENNARO: state your name for
11 the record...

12 SCOTT HEDDERICH: Sure, yeah. I'm Scott
13 Hedderich; I'm Director of Corporate Affairs for
14 Renewable Energy Group. Renewable Energy Group is a
15 leading North America biodiesel producer; we have a
16 nationwide distribution and logistics system..
17 [clearing throat] excuse me. REG currently has more
18 than 257 million gallons of owned and operated annual
19 production capacity at eight biorefineries across the
20 country, as well as over 20 terminal locations
21 nationwide, including five here in the New York
22 Metropolitan Area and in fact we're in the process of
23 finalizing an agreement with a leading petroleum
24 company in Northern New Jersey, which would bring our
25 metropolitan positions to six terminal facilities.

2 I think at this point, if it's alright, I
3 wanna deviate from my testimony a little bit. Before
4 I continue I want to say thank you, thank you to you,
5 thank you to the Committee, the City Council; the
6 Mayor; New York City's been a tremendous leader and
7 advocate on behalf of biodiesel. Obviously from the
8 City's perspective the goal is cleaner air; healthier
9 citizens and that's terrific and great; I think it's
10 been a great partnership where our products have been
11 able to deliver that; appreciate your vision, your
12 leadership; the Mayor's support; we wouldn't be here
13 today without the hard work you've done in the past,
14 so thank you for that.

15 With respect to the two bills that are
16 here today, 705 and 1047, I'm gonna talk mostly about
17 705; I think there's some broad support that you've
18 heard from all the panelists around 1047; I would
19 certainly echo all the folks on this panel with
20 respect to their comments and concerns.

21 With respect to 705, I guess first let
22 me... let me state that while I understand the concerns
23 that were raised by the film industry, I wanna point
24 out that the hard data around biodiesel doesn't
25 support some of the claims that were made with

2 respect to performance and gelling and warranty
3 concerns. Blends up to b-5 are warranted by every
4 major generator manufacturer; Cummins, Detroit
5 Diesel, Ingersoll Rand; the list goes on and that
6 data's widely available and documented.

7 With respect to availability, you
8 certainly heard at the beginning of my testimony, we
9 have a number of terminal positions; New York City's
10 blessed with a number of companies that are handling
11 and operating biodiesel, it's not just REG, as much
12 as I wish that would be the case, so having other
13 producers and other handlers of product in the state
14 means that there's an excellent supply and there's
15 excellent competition for price.

16 As Shelby mentioned, biodiesel has been
17 significantly cheaper than ULSD if not every month
18 out of the last 24 months looking backwards, I think
19 were at 22 or 23 of those months. So price shouldn't
20 be a concern. I heard that as an issue, I also heard
21 availability; again, I think the data proves out that
22 there's plenty of significant supply.

23 I do wanna point out one thing, and I
24 hope Chairman Gennaro that you can pass this along to
25

1 the motion picture folks who testified at the..

2 [crosstalk]

3 CHAIRPERSON GENNARO: Yeah, we've got uh...
4 we've got uh... you know, I forgot your name.

5 SCOTT HEDDERICH: Good.

6 CHAIRPERSON GENNARO: Yeah... [crosstalk]

7 SCOTT HEDDERICH: One of...

8 CHAIRPERSON GENNARO: we have Angela and
9 the others here, and you came with Stuart, right?
10 Okay, yeah.

11 SCOTT HEDDERICH: So one of the comments
12 that was made was with respect to some of the smaller
13 productions and I fully understand, in any industry
14 you're gonna have a varied number of sizes of
15 operation, from the great big to the very tiny, and
16 one of the comments was made that these small
17 producers... small location shoots are typically gonna
18 go to a filling station, fill up with diesel and come
19 back and operate those generators. In New York State
20 there's roughly 70 cents that's applied to on-road
21 diesel tax, 24.5 cents is federal excise tax for on-
22 road use and then the remaining amount would be New
23 York State taxes on diesel. I can tell you fully
24 that that 24.5 cents does not apply to off-road
25

1 applications and generators and the fueling of
2 generators at a film production site would be an off-
3 road application, so that's 24 cents a gallon that
4 those operations don't have to pay, are paying extra
5 every time their contractor is going to a local
6 fueling station to get fuel.
7

8 In addition, and I apologize, I don't
9 have the exact number, but out of that 45 some odd
10 cents that's New York State taxes, a significant
11 portion of that does not apply to the off-road
12 portion as well. So if there's a concern about cost
13 and a concern about operation, simply just looking at
14 the bottom line of your existing operation and where
15 that fuel is coming from, if it is indeed true that
16 they're going down to the corner filling station to
17 get their diesel fuel, there is significant savings
18 in getting fuel from a contractor, whether it's
19 jobbers that John might represent or other fuel
20 suppliers here in the City, by getting dyed fuel by
21 not paying the on-road taxes, significant savings
22 alone.

23 Now selfishly I would also point out that
24 if you add biodiesel to that, since our product has
25 been cheaper than ULSD, those savings will multiply.

2 With respect to 1047, you heard the
3 testimony earlier; I'll echo that completely, we
4 think it's a fantastic bill, a fantastic step; there
5 are warranties up to b-5; it's the right move to
6 make, ASTM has been a little bit slow, but in
7 conjunction with NBB and NORA [phonetic], there are
8 projects underway to look at increased blends, so the
9 pilot study that looks at a b-10 I think times very
10 well with that effort to try to get those blends at
11 an ASTM standard to a higher level.

12 And with that I'm gonna pivot and segue
13 to some comments that the City made earlier in the
14 day with respect to looking at some definitions
15 around what renewable fuels might be available to use
16 besides biodiesel. And I would just point out...
17 [interpose]

18 CHAIRPERSON GENNARO: Yeah, that got my
19 attention, yeah.

20 SCOTT HEDDERICH: The biodiesel industry
21 has spent decades working with everyone up and down
22 the value chain within the ASTM process to come out
23 with standards for our product for usage. And we
24 have a very robust set of standards for on-road, off-
25 road usage and as John point out, we're still doing a

1 lot of work... [clearing throat] excuse me... in the oil
2 heat industry; we've got work underway today with the
3 value chain looking biodiesel in the pipeline
4 systems. So we've done, I'd like to think, for the
5 most part, the heavy lift and the hard labor around
6 coming up with those standards.
7

8 When you look at potentially changing the
9 definition of fuel that would be available to use,
10 something like a renewable diesel or some other
11 products that are out there, they don't have the same
12 robustness that biodiesel has with respect to having
13 an ASTM standard. They may meet the existing on-road
14 D975 standard for fuel, but I think if you were to
15 ask users up and down the chain, and certainly I can
16 tell you that the ASTM committee meetings will bear
17 this out; there's concerns that there's not been very
18 significant testing of renewable diesel, what
19 emission profiles look like; long-term wear and
20 compatibility studies haven't been done the way that
21 they were done on the biodiesel side.

22 Now it could very well be at the end of
23 the day products like renewable diesel will be
24 fantastic and may even have more usability than
25 biodiesel, but until those standard-setting bodies

1
2 can put mechanisms in place, I would caution the
3 Committee and the Council on including those in
4 definitions.

5 The City today has the authority to, if
6 they feel they need to for whatever reasons, to come
7 and seek a waiver and try to bring in a fuel; I don't
8 see the need to change that mechanism right now, I
9 think it's premature; then when we look down the road
10 three, four years, ASTM standards will have caught up
11 with those renewable diesel characteristics. And
12 just lastly, when you talk about renewable diesel,
13 unfortunately it's a term that's getting used in
14 broader applications than what the science supports
15 and I guess not a very good example, but an example
16 I'll use is; I remember growing we always talked
17 about going to the Xerox machine to make copies, well
18 you know, there's a gazillion other... I don't even
19 know if Xerox still makes copy machines today;
20 obviously that was a brand new term, so we talk about
21 renewable diesel and the reality is that there's
22 three major plants or three major operators, they
23 have more than three plants, in the world that make
24 renewable diesel, there's two in the U.S., there's
25 Nestea in Europe; there's a lot of other companies

1 that are selling products under the renewable diesel
2 label that chemically is not renewable diesel,
3 chemically it's not biodiesel; I can tell you... and
4 it's not anecdotal, I mean we have the data where
5 companies were selling basically hydroprocessed
6 vegetable oil as fuel and that's the worst thing you
7 can do; it burns if you've got a high enough
8 temperature, but along the way it gums up processes,
9 engines; folks came to us looking for analytical
10 testing data around it and it was just terrible for
11 some on-road trucker applications; it wouldn't be
12 appropriate in the city, it wouldn't be appropriate
13 whether we're talking about generator usage, it
14 wouldn't be appropriate if we're talking about
15 building usage or for bioheat here in the City. So I
16 would just caution and urge the Committee to have
17 some trepidation about how broadly they expand that
18 definition head of where the testing bodies are.

19
20 And with that I'll conclude; again, say
21 thank you of your leadership, it's been terrific; I
22 think these are fantastic bills, I understand the
23 concerns that the television and motion picture folks
24 have raised; I think they're easily worked out,
25 whether you're looking at a small exemption or you

2 know, exemption for small operations, small users of
3 fuels or other mechanisms and I hope we can go
4 forward with that. Thank you.

5 CHAIRPERSON GENNARO: Thank you. Thank
6 you. Yeah, thank you, Scott and thanks to this whole
7 panel. I'm gonna start with Scott, maybe work
8 backwards and the questions I ask, anybody can jump
9 in on.

10 Samara, do me a favor, just give me uh... I
11 just wanna go back to the Administration's testimony;
12 is this it? Yeah. And so let's go to... although, you
13 know what, I tell you what, in deference to the time
14 that people are here or from the movie and TV; why
15 don't I start with that; then we'll... 'cause they have
16 busy lives and might not wanna stay as we get into
17 the weeds on like definitions and all that.

18 But what you're saying is that when you
19 buy fuels at the pump you're paying some kind of on
20 the road taxation that's 24-som'in cents or whatever...
21 [crosstalk]

22 SCOTT HEDDERICH: Exactly.

23 CHAIRPERSON GENNARO: and... and then, you
24 know, in addition the State gets a bite as well for
25 some sort of like on the road tax thing and so to buy

1 fuel that is delivered by a supplier to a site you're
2 not paying the 24 some odd cents and you're not
3 paying the New York State portion or whatever and
4 that full amount is 24 cents plus whatever it is.

5
6 SCOTT HEDDERICH: Close to 45 in
7 addition... [interpose]

8 CHAIRPERSON GENNARO: So... so... so... so it's
9 about...

10 SCOTT HEDDERICH: 70 cents. 24 cents of
11 the federal level... it's 24.4 and then I think at the
12 State level it's 45 and some change, so you're
13 looking at 70, 71 cents total that would be paid for...
14 excise tax for on-road... yeah, we have things called
15 bridges and roads that need to be built and
16 maintained... [crosstalk]

17 CHAIRPERSON GENNARO: Right, right,
18 right, right.

19 SCOTT HEDDERICH: and those funds go to
20 support that... [interpose]

21 CHAIRPERSON GENNARO: Yeah. And fully
22 though... [crosstalk]

23 SCOTT HEDDERICH: Fully that 24...
24
25

2 CHAIRPERSON GENNARO: and so buying... so
3 it would be the 24 cents plus the 70-something cents...
4 [crosstalk]

5 SCOTT HEDDERICH: 70 cents total, so...

6 CHAIRPERSON GENNARO: total? So it'd be
7 the 25 plus the 45, total of about 70 cents cheaper
8 per gallon to... [crosstalk]

9 SCOTT HEDDERICH: I wanna put one
10 asterisk around that... [interpose]

11 CHAIRPERSON GENNARO: Yeah.

12 SCOTT HEDDERICH: in New York State,
13 excise tax, I'm not familiar with whether a 100
14 percent of that would be waived or whether it would
15 be a portion...

16 CHAIRPERSON GENNARO: Some... some split,
17 so it's... [interpose]

18 SCOTT HEDDERICH: I mean you're at least
19 looking at 50 to 60 cents a gallon that you wouldn't
20 have to pay... [crosstalk]

21 CHAIRPERSON GENNARO: Right. How much
22 does the stuff... how much does it cost at the pump; I
23 have no idea?

24 SCOTT HEDDERICH: In New York, what is it
25 goin' for, \$3.80...? [interpose]

1 [background comments]

2 CHAIRPERSON GENNARO: Yeah. Yeah, so...

3 [crosstalk]

4 [background comment]

5 CHAIRPERSON GENNARO: Right. Yeah.

6 JOHN MANISCALCO: I think the gentleman
7 that made... [interpose]

8 CHAIRPERSON GENNARO: Okay, yeah, just
9 make sure you're talkin' in the microphone.

10 JOHN MANISCALCO: The gentleman who made
11 that comment I think's probably more the exception to
12 the rule, because from what I was hearin' from the
13 production industry, it's not a matter of supply
14 availability, it's a matter of I think delivery
15 availability. If you have the tank trucks coming to
16 the site, I really don't think it would be an issue;
17 if that vehicle has to leave the site and go find a
18 gas station to diesel up; that could be problematic,
19 number one; number two, then the Scott scenario comes
20 in, that they are paying all that addition excise tax
21 as if it's used in a diesel engine that's over the
22 road. So it's a matter of to simplify matters, they
23 can get one of my teamster drivers to delivery it to
24

25

1
2 one of their teamster generators, then there would be
3 no issue with it.

4 CHAIRPERSON GENNARO: Right. Yeah,
5 'cause some of them were saying that that's their
6 standard practice, that it's, you know very common in
7 these very small productions that they go to a local
8 filling station and that's that. And so you know,
9 I'm kind of... I wish the guy from the Movie and TV
10 from the Mayor's Office was here, but I know Gerry,
11 you'll fill him in on the testimony that's here. You
12 know, I'm inclined to, you know, to try to... you know,
13 try to get som'in on 705; I just don't wanna, you
14 know, give it up for the purposes of small, you know,
15 small TV commercial kinda setups that may have
16 problems; I, you know think that by and large... you
17 know what, the bigger operations are probably getting
18 fuel deliveries anyway, right; that's happening. But
19 it almost... but if they're kinda... again, I'm arguing
20 with myself on the record, which is not a good thing,
21 but if it's tantamount that it's already happening
22 already and people are sort of... you know, if you
23 added up all the b-5 that's being burned in these
24 generators now; you know, would the majority of it be
25 b-5 anyway? I mean that's kinda my question. So I...

1 I... you know, so you've... when you do a law you're
2 tryin' to... you know, you're tryin' to make something
3 happen; if it's already happening; I guess that's my
4 question... [crosstalk]

6 SCOTT HEDDERICH: I... I... I think... I think
7 the answer is; it's difficult... it's difficult to
8 answer that... [interpose]

9 CHAIRPERSON GENNARO: Right.

10 SCOTT HEDDERICH: without having good
11 data on where the purchases are occurring...
12 [interpose]

13 CHAIRPERSON GENNARO: Yeah.

14 SCOTT HEDDERICH: and what the practices
15 are. We talk about b-5 availability; you know, to
16 throw out a number, maybe 50 percent, 60 percent...

17 CHAIRPERSON GENNARO: Yeah.

18 SCOTT HEDDERICH: of the industry's using
19 it, but it's not a 100 percent... [interpose]

20 CHAIRPERSON GENNARO: Yeah.

21 SCOTT HEDDERICH: and as Shelby
22 mentioned, at the end of the day there has to be a
23 weighing of the public health benefits of having, you
24 know these generators at ground level, where the
25 exhaust is... [interpose]

2 CHAIRPERSON GENNARO: Yeah.

3 SCOTT HEDDERICH: right out in the
4 community and the benefits of having a cleaner
5 emissions profile versus the concerns that were
6 raised earlier.

7 CHAIRPERSON GENNARO: Right. But we also
8 could balance that... you know, the other gentleman
9 made a good point about, you know you've got City DOT
10 pavin' the street and they've got a big generator
11 running, like what are they using; I don't even know.
12 Yeah, and so I'm... yeah... [interpose]

13 JOHN MANISCALCO: If I could Jim just to
14 kinda like...

15 CHAIRPERSON GENNARO: Yeah, sure.

16 JOHN MANISCALCO: 'cause I know you're
17 toying with you know; are they getting b-5 already.
18 Based on today's current economics with biodiesel,
19 yeah, I wouldn't be surprised they're getting b-5,
20 b-7, b-9; b-10, we don't know; fact remains, they do
21 not have to deliver that much, so it could in fact be
22 b-2 or b-3.

23 CHAIRPERSON GENNARO: Right.

24 JOHN MANISCALCO: So you know, to... if the
25 law says b-5, then that's... that's totally different,

2 but to just take the position that, well they're
3 probably getting it anyway..

4 CHAIRPERSON GENNARO: Yeah.

5 JOHN MANISCALCO: you really can't do
6 that.

7 CHAIRPERSON GENNARO: Right. Okay, so
8 you know, just... and I think this is... to staff...
9 because the person in the... the person within the
10 Administration that's gonna... you know that really
11 works closest with the motion... you know with all the
12 TV people and commercials and movie production would
13 be... that guy Dean; whatever his name is, for the... who
14 is the Mayor's Office like film guy, I think him in
15 concert you know with the OLTPS; I mean you know, I
16 would like to see you know more discussion, more
17 negotiation and it would be my inclination to try to
18 get something, with the possible exception of, you
19 know, very small productions and some... 'cause it was
20 a really small production is just... what the heck we
21 gettin' out of it anyway, you know and so... so in a
22 really small production, maybe some sort of... you know
23 like it kicks in or a certain level or some kind of
24 exemption or you know, something that would not cause
25 undo burden on them, but for the others I think we

2 should... you know, I think we should do this and... and
3 you know, you guys are in the fuel business, you're
4 not in like the engine business and you know the
5 witness here who purported to sort of speak for... he
6 was like in the generator business, you know; he was
7 the one who was saying, oh no, this doesn't work and
8 it does this and it does that and I just haven't, you
9 know heard that you know that much and hopefully this
10 won't be a problem for them, 'cause at the end of the
11 day it's like, it's a diesel engine; this is what it
12 is; I mean it just... it just does a different thing;
13 rather than turn a drive shaft it generates
14 electricity, it just... that's kind of the difference,
15 right; it's... a diesel's a diesel and so unless I'm
16 missing something here, Shelby.

17 SHELBY NEAL: Yes, thank you Mr.

18 Chairman. So I think it's important to understand;
19 so Scott mentioned a point about not at this point in
20 time supporting renewable diesel in... in... [crosstalk]

21 CHAIRPERSON GENNARO: Oh yeah, I'm gonna...
22 I'm gonna get... I'm gonna get to that... that's the
23 other thing; I just wanna get the movie stuff out of
24 the way first because we're not... we're not even there
25 yet to the whole part of the Administration testimony

1 with, you know him doing waivers and bringing in
2 other fuels; that's like a different thing.

3 SHELBY NEAL: Yes, sir. But I just
4 wanted to mention that the reason for that is because
5 there's not a consensus ASTM International
6 specification for the fuel, which is very important
7 for quality assurance and fuel quality enforcement...

8 CHAIRPERSON GENNARO: Right.

9 SHELBY NEAL: so when you look at b-5 in
10 generators, look at ASTM International
11 specifications, b-5 has been included in
12 specification for the generators and that is a
13 consensus recommendation, so all of the companies who
14 make generators are... [crosstalk]

15 CHAIRPERSON GENNARO: Right.

16 SHELBY NEAL: on ASTM International and...
17 [interpose]

18 CHAIRPERSON GENNARO: Right.

19 SHELBY NEAL: they did not vote against
20 the specifications, so one would think that it would
21 cause problems; they would not do that... [crosstalk]

22 CHAIRPERSON GENNARO: And... and... and... and
23 this goes... and this goes back to... and... and... and this
24 would apply to, you know, oil... all generators that
25

1 are in operation now, even if they're "old" or
2 something, right; they all... [interpose]

3
4 SHELBY NEAL: Yeah, legacy generators...
5 [crosstalk]

6 CHAIRPERSON GENNARO: Yeah...

7 SHELBY NEAL: I think you would probably
8 call them.

9 CHAIRPERSON GENNARO: it's like... it's
10 like the spec... you know, the manufacturers are good
11 with the b-5 or less spec for all diesel engines,
12 including generators and all that, so this is...

13 SHELBY NEAL: That's correct Mr.
14 Chairman, so for performance purposes, for fit for
15 purpose... what we call fit for purpose for engines,
16 all of the petroleum companies, engine manufacturers;
17 fuel producers have come together and agreed that for
18 purposes of engine performance, b-5 is exactly the
19 same as petroleum-based diesel fuel, including the
20 companies that produce generators.

21 CHAIRPERSON GENNARO: Right.

22 SCOTT HEDDERICH: Mr. Chairman, if I
23 could just... [crosstalk]

24 CHAIRPERSON GENNARO: Okay. Yeah. Yeah.
25

2 SCOTT HEDDERICH: just add one thing;
3 we're talking about... you raised a question about
4 older generators or legacy generators; those are
5 exactly the pieces of equipment that biodiesel should
6 be used in and those are the pieces of equipment
7 that'll give you the biggest emissions improvement,
8 the biggest bang for the buck. There was a comment
9 made about moving equipment earlier in the day to
10 Tier 3, Tier 4 engines; those engines basically have
11 a lot of interesting and expensive after treatment to
12 ensure emissions are...

13 CHAIRPERSON GENNARO: Right.

14 SCOTT HEDDERICH: are environmentally
15 benign.

16 CHAIRPERSON GENNARO: Yeah.

17 SCOTT HEDDERICH: The older engines don't
18 and biodiesel gives you a better combustion platform
19 at a 5 percent blend when we're talking about those
20 generators, so you're gonna have more throw burn and
21 you're gonna have less particulate emission; you're
22 gonna have less tail pipe emission. And so it's
23 really, in our opinion, REG's opinion, those are
24 exactly the pieces of equipment that biodiesel should
25 be focused on; we shouldn't use concerns about

2 warranties which would've already expired on older
3 pieces of equipment to hang up an opportunity to
4 improve what the emissions profile could be.

5 [background comment]

6 CHAIRPERSON GENNARO: Yeah, yeah. Sure,
7 sure.

8 DEHRAN DUCKWORTH: So the reason I
9 brought up the whole, it's already there, you're
10 already using it point... [crosstalk]

11 CHAIRPERSON GENNARO: Yeah, yeah, yeah.

12 DEHRAN DUCKWORTH: was not so much to
13 push the, you know the consensus in the direction,
14 it's already there so don't mandate anything..
15 [crosstalk]

16 CHAIRPERSON GENNARO: Oh no, I'm not... I'm
17 not...

18 DEHRAN DUCKWORTH: it was more about the
19 fact that... [interpose]

20 CHAIRPERSON GENNARO: I'm not hanging
21 that on you, Dehran, I'm not... I'm not sticking you..
22 [crosstalk]

23 DEHRAN DUCKWORTH: a lot of these... a lot
24 of the... you know a lot of people...

25

2 CHAIRPERSON GENNARO: with that matzo
3 ball...

4 DEHRAN DUCKWORTH: Thank you, sir.

5 CHAIRPERSON GENNARO: I... I have my own
6 thing, yeah...

7 [laughter]

8 DEHRAN DUCKWORTH: Thank you, sir;
9 appreciate it. So the point was just that it's
10 already in use, so a lot of these concerns that were
11 brought up earlier... [interpose]

12 CHAIRPERSON GENNARO: Right.

13 DEHRAN DUCKWORTH: by the industry are...
14 [interpose]

15 CHAIRPERSON GENNARO: Yeah.

16 DEHRAN DUCKWORTH: a lot of them may not
17 have realized that at this point they've been using
18 that and so you know, again, full support for a
19 mandate just to bring that into the forefront,
20 because you know, I think that we should know that...
21 that... [interpose]

22 CHAIRPERSON GENNARO: Right.

23 DEHRAN DUCKWORTH: that's what we're
24 using and that's... that it does work and that would...
25 if... if certain parties had been aware of that, that

would've dispelled a lot of their concerns, if uh...

[interpose]

CHAIRPERSON GENNARO: Right.

DEHRAN DUCKWORTH: oh okay, well then we can fully support a mandate that will bump up the use of a clean renewable fuel by millions of gallons per year, you know and actually be able to tell people about it... [interpose]

CHAIRPERSON GENNARO: Right.

DEHRAN DUCKWORTH: rather than kinda having this secret blend you know... [interpose]

CHAIRPERSON GENNARO: Yeah. Yeah. Yes; I think I wanna... I think I wanna do som'in on 705; I wanna be sensitive to, you know, small productions where you know, they might want some kind of exemption if it kicks in... I don't know how it would be worded, but I... and this is why I thought it was important to... you know I have people from the movie industry here you know to hear this part of the hearing and... yeah, I'm... so you know, note to staff, I think we should engage the Administration on trying to get something done and you know, they can... their support would be nec... at this stage of the game I don't think we wanna get into a thing where the

1 Council passes the bill, the Mayor vetoes it and... it
2 just... it's... let's just figure out som'in that we can
3 kick through the goal post and just get some points
4 on the board and do it and we should kinda, you know,
5 do these two bills together and they want the... so I
6 think there's some you know give here and they came
7 here and testified... you know, the movie
8 administration testified that they had some concerns,
9 but they weren't... you know, didn't seem like they
10 were that freaked out and so with more information
11 like which was provided at today's hearing and you
12 know, full access to people who are providers who
13 could help, you know quell some of their concerns
14 maybe, you know we get there; we hope the movie
15 people will try to work with us on it 'cause we don't
16 wanna cause anybody a hard time and I know that... I
17 know that Stuart was here and he had to go, but you
18 know, tell him I love him, but we're... we... we... you
19 know, we wanna try to get somethin' here and so
20 we'll... you know, so the Mayor's Office is gonna be
21 kind of the pivot; we're gonna tell them that we want
22 this and then, you know, people who wanna push back,
23 you know... if you wanna push back, that's where you
24 should focus, you know and... because whether this bill
25

1 gets done or not, it's very much gonna be up to
2 whether or not... in all candor and it's gonna be very
3 much up to you know whether the Mayor's Office goes
4 like this [thumb up] or this [thumb down] 'cause the
5 Mayor's Office just... if they're gonna be arou... I
6 don't think we're gonna get into a big fat fight with
7 them, I just... you know, no one's in a fightin' mood
8 with 77 days to go; I think we'll just... so I mean,
9 I'm indicating that they have the ability probably to
10 put the kibosh on it, you know, so. So if I was
11 coaching the people who are like opposed to it,
12 that's the way you should go, you know and... and we'll
13 try to work out some'in reasonable, you know what I
14 mean, I just... I'm... couldn't... I'm being very candid,
15 you know I mean this is reality, 77 days to go; it's
16 just... you know, the Council and the Administration
17 are not lookin' for like big fat fights and all kinds
18 of stuff and you know that can waylay it too because
19 just setting up the meetings and getting information
20 and everything else we wanna get done and so it's
21 hard to get something that's complicated done, so I
22 thought earlier on; you know we just, you know take a
23 pass on 705, but now I... that's why I have hearings
24 and I think I've come around a little bit and so I

2 wanna try to... you know, I wanna try to get something.
3 And then we'll, you know, give them what they want on
4 the pilot, right, so they... you know, they get that...

5 COMMITTEE COUNSEL: Uhm-hm.

6 CHAIRPERSON GENNARO: and uh... Okay, so
7 that... that's kinda like the movie thing and so... so
8 we're done with the movie stuff and now I'm gonna
9 talk about other stuff that's of interest. Remind me
10 about this fuels and the waivers and this other stuff
11 that doesn't... also the whole notion... I wanna ask some
12 questions of the panel on the whole notion of the...
13 bye movie people, thank you, thank you, you still...
14 [interpose]

15 [background comments]

16 CHAIRPERSON GENNARO: still like me,
17 please.

18 [background comments]

19 [laughter]

20 CHAIRPERSON GENNARO: Okay. Alright now,
21 bye. I'm sorry; you can't... yeah, yeah the... there's...
22 I mean feel free to you know talk to me off the
23 record after... I'm not gonna recall witnesses at this
24 point, you know, but I mean I'm... I'm gonna be here,
25 you know and so feel free to talk to me. But with

1 regard to my... so we're gonna go to b-5 for City
2 buildings and you know, I asked the Administration
3 whether or not they'd be comfortable with goin' to
4 b-5 for citywide, you know, all buildings you know
5 b-5 thing and... and they're like, well we've gotta
6 like to do it first and you know, should we between
7 now and end of the year like legislate some kind of
8 initiative that we, you know say we're as a city, not
9 just the government, but as a city we're gonna go to
10 b-5 and then b-10 and b-20 and they didn't... you know,
11 they didn't see the... they didn't think that we were
12 there yet and I just sort of paraphrased them and
13 perhaps that's okay because when we do make the jump
14 from b-2 to whatever it is, it should be
15 comprehensive and based on all kinds of stuff and you
16 know, I don't know what the boiler requirements are
17 like beyond b-5 anyway, right, 'cause they haven't
18 figured that out, so I... so my question with that as a
19 background is that I put out this notion that I'd
20 like you to help me with that you know we should
21 include in the city building b-5 bill, which is now
22 the b-5 for all city buildings, the pilot for you
23 know b-10, to add onto that some sort of, you know,
24 legal requirement that they do a study, taking into
25

1 account all the stuff that I'm hearing about; it's
2 like the Bio Board is doin' some big study, right, or
3 somethin' and then there's... someone else is doin' a
4 big study and you know the City can use it's own
5 experience and have them report back in some set
6 period of time with an actual recommendation on where
7 the City should go from you know, b-2 to whatever;
8 what do you think of requiring them to do that study
9 and then they would have to make a recommendation in
10 a year or 18 months that based on all studies, based
11 on boilers, based on you know whatever, we should
12 move the mandate to you know b-5 and then to b-10 and
13 then, whatever. So how does that sound? It's
14 something, right? John.

16 JOHN MANISCALCO: I guess I'd have
17 somewhat of a problem with that, I guess for a number
18 of reasons. First of all it's... it would be based on
19 economics; I mean right now it's... you know you have
20 blenders tax credits we have deal with at the end of
21 the year that may expire... [interpose]

22 CHAIRPERSON GENNARO: Right.

23 JOHN MANISCALCO: with that legislative
24 body that's not in session, so... [interpose]

25 CHAIRPERSON GENNARO: Right.

2 JOHN MANISCALCO: we don't know what
3 they're gonna do. There's a complication with the
4 New York State bill we have ready to get signed;
5 that's still at b-2. ASTM spec; I mean b-5 is right
6 now, which is acceptable...

7 CHAIRPERSON GENNARO: Right.

8 JOHN MANISCALCO: there's no doubt in my
9 mind b-10; b-20 is fine, but it's just a... legally
10 it's a non-conforming fuel, period, so... [interpose]

11 CHAIRPERSON GENNARO: Right.

12 JOHN MANISCALCO: you can't put b-6 into
13 somebody's burners 'cause it blows the warranty; it's
14 just not conforming... [interpose]

15 CHAIRPERSON GENNARO: Right. Right.

16 JOHN MANISCALCO: But whether I think
17 it's fair or... safe or not... [crosstalk]

18 CHAIRPERSON GENNARO: Yeah.

19 JOHN MANISCALCO: which I do, it's just...
20 [interpose]

21 CHAIRPERSON GENNARO: Well then maybe...
22 then maybe we can... you know, I just don't think
23 they're ready, you know, to make the jump to
24 hyperspace; that the whole city's gonna be b-5...
25 [crosstalk]

2 JOHN MANISCALCO: I agree.

3 CHAIRPERSON GENNARO: they're just...
4 they're just not going there, so... [crosstalk]

5 JOHN MANISCALCO: I... I would... I would
6 slow down the process myself. I mean months...
7 speaking on behalf of my industry, 'cause...
8 [crosstalk]

9 CHAIRPERSON GENNARO: Yeah, yeah.

10 JOHN MANISCALCO: we know when we're
11 gonna be ready to go to b-5... [crosstalk]

12 CHAIRPERSON GENNARO: Right.

13 JOHN MANISCALCO: 'cause you know we went
14 to b-2 in a heartbeat, you know we're... we're all for
15 it and we're gonna get to b-5, we just need a little
16 bit more time.

17 CHAIRPERSON GENNARO: Right, but...
18 [crosstalk]

19 JOHN MANISCALCO: And then... and then once
20 we get the ASTM spec to be b-20, that's when we look
21 to trigger up... [interpose]

22 CHAIRPERSON GENNARO: Is that gonna
23 happen? Is that gonna...

24 JOHN MANISCALCO: I could estimate; maybe
25 they could fill in, but... [crosstalk]

2 CHAIRPERSON GENNARO: Right.

3 JOHN MANISCALCO: you know ASTM, it's...
4 you know, it's a long process... [crosstalk]

5 CHAIRPERSON GENNARO: Right.

6 JOHN MANISCALCO: you know, you've got a
7 lot of... lot of... it's a big think tank...

8 CHAIRPERSON GENNARO: Right.

9 JOHN MANISCALCO: And I'm told it's
10 still, I guess six to 18 months.

11 CHAIRPERSON GENNARO: Right, but
12 certainly, you know, the burners and all the boilers
13 in New York City, according to the ASTM, could do b-5
14 now; that wouldn't violate their thing?

15 JOHN MANISCALCO: That's correct, the
16 City has an issue; if they go to b-10, then you know
17 it's... [interpose]

18 CHAIRPERSON GENNARO: Right. So... so I'm...

19 JOHN MANISCALCO: it's a gray area.

20 CHAIRPERSON GENNARO: I just wanna, you
21 know think about... I mean I would like to leave office
22 with... again, I'm not an expert, but okay, so we got
23 the City to go to b-2, we got you know the city
24 government buildings to go to b-5; you know, how
25 'bout the whole city at b-5; doest that make any

1 sense or beyond? And so we're not gonna get that,
2 but to require that the Administration perhaps you
3 know within a year or 18 months to formally make a
4 recommendation as to whether or not you know there
5 should be a citywide b-5... [crosstalk]

6 JOHN MANISCALCO: If... if...

7 CHAIRPERSON GENNARO: you know, we're
8 just asking them to answer that question, but based
9 on... [crosstalk]

10 JOHN MANISCALCO: No, if you put it that
11 way, you... you... you kick that can down the road 18
12 months so by then we have some actual data...

13 [interpose]

14 CHAIRPERSON GENNARO: Right; that's what
15 I'm talkin' 'bout, yeah... [crosstalk]

16 JOHN MANISCALCO: and the ASTM might even
17 be ready by then; then by all means we'd... just the
18 idea of the studies... [crosstalk]

19 CHAIRPERSON GENNARO: Right, 'cause I
20 just think that... I just don't wanna leave it off
21 that; okay, the City's at b-2 and city government
22 buildings will be at b-5 and you know, how 'bout... how
23 'bout moving the city as a whole towards b-5; I
24 can't, you know, get that right now, but to say that
25

2 they have to make a recommendation within some set
3 period of time, you know they'd have to make like a
4 formal report that would have to be, you know,
5 defensible; you know make a formal recommendation you
6 know to the Council or it could even be in the form...
7 where'd Samara go, she... and so even if it's in the
8 form of a, you know, a mayor's bill to the Council,
9 the mayor can, you know introduce legislation by
10 request to the Council, but I... you know, I... I think I
11 want the City to take a formal look at that, 'cause
12 that... [crosstalk]

13 DEHRAN DUCKWORTH: Could... could I point
14 out a little...

15 CHAIRPERSON GENNARO: 'cause that sets
16 something in motion.

17 DEHRAN DUCKWORTH: Sorry to interrupt
18 you... [interpose]

19 CHAIRPERSON GENNARO: No, go ahead; it's
20 uh... [crosstalk]

21 DEHRAN DUCKWORTH: I uh... I just wanted
22 to...

23 CHAIRPERSON GENNARO: you know, we're
24 just guys talkin' here, you know.

2 DEHRAN DUCKWORTH: wanted to point out,
3 when the original b-2 law was passed and we did do a
4 fair amount of consulting with the City Council at
5 that time... [interpose]

6 CHAIRPERSON GENNARO: Right.

7 DEHRAN DUCKWORTH: if my memory serves
8 me, a lot of that was based on the state of the
9 biodiesel industry at that time and there was a real
10 question, if we bumped it up to 5 percent...

11 [interpose]

12 CHAIRPERSON GENNARO: Right.

13 DEHRAN DUCKWORTH: is there the products
14 to fill that gap... [crosstalk]

15 CHAIRPERSON GENNARO: Yeah, yeah, yeah.

16 DEHRAN DUCKWORTH: At that time a lot of
17 those estimations were based on how much used cooking
18 oil was available, for example... [interpose]

19 CHAIRPERSON GENNARO: Yeah.

20 DEHRAN DUCKWORTH: if there was... for... if
21 we said there was 50 or 60,000... uh 50 or 60 million
22 gallons of used cooking oil in the City, that turned
23 into sort of a 2 percent of the total usage...

24 [interpose]

25 CHAIRPERSON GENNARO: Yeah.

2 DEHRAN DUCKWORTH: and I... if I remember
3 correctly, that's where that number came from; I'm
4 sure there was other you know elements involved, but
5 the industry's in a very different place at this
6 point where... [interpose]

7 CHAIRPERSON GENNARO: Right.

8 DEHRAN DUCKWORTH: that certain that 5
9 percent volume can be met easily, if... you know if
10 that was... [interpose]

11 CHAIRPERSON GENNARO: Right.

12 DEHRAN DUCKWORTH: one of the major
13 factors, we've come a long way, so... see the gentlemen
14 who are sitting at the table now... [interpose]

15 CHAIRPERSON GENNARO: Yeah, I'm just
16 thinking that, you know, I'm not gettin' b-5 for the
17 City as a whole, but if I could leave a little post-
18 it note, you know that legally requires the City to
19 study this with all due diligence and to you know
20 make a formal report, or formal recommendation, you
21 know, to go to b-5 by some date that we would set, it
22 would be... you know that would be part of the law that
23 they have to... you know, we're gonna do the b-5 for
24 city buildings, we're gonna do the pilot for, you
25 know b-10 and we're gonna do this study which

1 requires them in 12 or 18 months to, you know
2 formally make a recommendation on the whole city
3 going to b-5 or not. You know it would have to be
4 you know worded properly, but I just think I... I don't
5 wanna leave it just as... you know, at nothing; you
6 know I would want to just give 'em a little homework
7 assignment that they have to follow up, but you know,
8 I don't wanna... I don't wanna scare anybody; that
9 doesn't scare you John, right; that... yeah.

11 JOHN MANISCALCO: Well it's just a
12 recommendation 12 or 18 months from now, sure.

13 CHAIRPERSON GENNARO: Yeah, I mean it
14 would be... you know, but they would be legally
15 required to you know do this analysis and you know...
16 [interpose]

17 JOHN MANISCALCO: You said with the
18 backup data...

19 CHAIRPERSON GENNARO: Right, right; it
20 would have to be... it would have to be real... and there
21 would have to be a report, have to be an analysis,
22 they would have to document what they've looked at to
23 come to their recommendation and that would be... you
24 know, that could be challenged, that could be
25 discussed or whatever, but that... it puts the City on

1 a course where you know they have to study this and
2 come up with a recommendation that'll be, you know
3 defensible and... you know, so we can legally require
4 them to do that study, 'cause I just... you know, I...
5 that's what I was thinking; how do... do we like this
6 or what? Okay. Let the record show that... yeah, that
7 Scott... [interpose]

8 [laughter]

9 CHAIRPERSON GENNARO: thumbs up, yeah.
10 Yeah, I don't think the tape recorder... [interpose]

11 [background comment]

12 CHAIRPERSON GENNARO: Yeah, I don't think
13 the tape recorder picked that up. Now... Okay, now
14 this... [interpose]

15 SHELBY NEAL: Mr. Chairman?

16 CHAIRPERSON GENNARO: Yes.

17 SHELBY NEAL: If I could make one
18 comment... [crosstalk]

19 CHAIRPERSON GENNARO: 'cause I've got one
20 last, you know, subject area after this, which is
21 Scott's thing, the fuel waiver thing.

22 SHELBY NEAL: I think clearly we would
23 support all that; I think that one issue that didn't
24 get a lot of discussion that I think is of interest
25

1 is the mid-level blend, b-10 aspect of that in the
2 official study and report. We know of course the
3 distribution... [interpose]

4
5 CHAIRPERSON GENNARO: Who's doin' that;
6 who's that; you guys are doin' that?

7 SHELBY NEAL: Well uh, in your bill;
8 that's what I was referring to, that uh... [crosstalk]

9 CHAIRPERSON GENNARO: Oh, okay...

10 SHELBY NEAL: requires the City to use
11 b-10 and roughly 10 percent... [crosstalk]

12 CHAIRPERSON GENNARO: The pilot?

13 SHELBY NEAL: Yes, exactly and so...
14 [crosstalk]

15 CHAIRPERSON GENNARO: Right, right, the
16 pilot.

17 SHELBY NEAL: the study that goes along
18 with that. So certainly we have a lot of...

19 [crosstalk]

20 CHAIRPERSON GENNARO: Oh, so it's... of
21 course, so it's... if it's a pilot, by definition it's
22 a study; right?

23 SHELBY NEAL: Yes.

24 CHAIRPERSON GENNARO: Right.
25

2 SHELBY NEAL: Yes. Yes. So I think
3 that, if I'm not mistaken, the bill would require
4 published results of that... [interpose]

5 CHAIRPERSON GENNARO: Right.

6 SHELBY NEAL: which I think would be
7 particularly valuable for us, so certainly there's a
8 lot of mid and high-level blend biodiesel going into
9 heating oil applications... [interpose]

10 CHAIRPERSON GENNARO: Right.

11 SHELBY NEAL: but what we don't have is a
12 lot of published data on that, so I think that could
13 be particularly useful for us in taking the next
14 step.

15 CHAIRPERSON GENNARO: So in terms of
16 where to... being that they're gonna be doing a study
17 anyway for the b-10, so they should opine on b-10 on
18 how it performs or whatever and that'll inform other
19 you know entities or that wanna look at that, but
20 some way we've gotta get in where they have to you
21 know make a formal recommendation to go to b-5 or...
22 'cause I guess we're kind of projecting that the ASTM
23 may not go to 10 within whatever and so... [crosstalk]

24 SHELBY NEAL: I...
25

2 CHAIRPERSON GENNARO: we know it's at 5
3 now.

4 SHELBY NEAL: Well I think... so to put a
5 little finer point on it; so we know that Mr. Kerman,
6 for example, has been using b-20 in Parks for three
7 or four years...

8 CHAIRPERSON GENNARO: Right.

9 SHELBY NEAL: in virtually every building
10 that they have; well to find out the results of their
11 experience you have to go speak to Mr. Kerman...

12 [interpose]

13 CHAIRPERSON GENNARO: Right.

14 SHELBY NEAL: so it might be valuable to
15 have a written document drafted that discusses their
16 experience with those blend levels.

17 CHAIRPERSON GENNARO: You know, so why
18 don't we then... you can get these notes to Samara... but
19 so why don't I kinda like volunteer you to, you know,
20 come up with some language that we could use that...
21 that gets to that purpose of... you know they're using
22 it in Parks; they're gonna do the b-10 pilot; they'll
23 wanna scale that back, you know, to 5 percent of
24 buildings instead of 10 percent, I believe, and you
25 know, all... and I guess one of the things that should

1 pop out of the study... let's see, you've got the
2 pilot; you got the b-20 use at Parks, is you know,
3 something that should pop out of that study is like a
4 formal recommendation on you know, whether and when
5 the city as a whole; not... you know the city as a
6 whole should go to b-5. So you know what I'm sayin',
7 right?

8
9 SHELBY NEAL: Yes.

10 CHAIRPERSON GENNARO: So yeah, if...

11 SHELBY NEAL: I'd be happy to follow up
12 on that.

13 CHAIRPERSON GENNARO: Yeah, if you just
14 talk to Samara about that and give her some you know
15 language to that effect and so I think that would be...
16 because they're using it; there's real data obviously
17 and yeah, it shouldn't just be Mr. uh... Kerman is his
18 name?

19 SHELBY NEAL: Yes, Keith Kerman.

20 CHAIRPERSON GENNARO: Kerman?

21 SHELBY NEAL: Yes.

22 CHAIRPERSON GENNARO: Kerman. Yeah and
23 so... yeah, it shouldn't just be in his filing cabinet,
24 it should be... you know, it's valuable information for
25

1 anyone who's doin' that. Okay, so you got that?
2
3 Okay.

4 And then uh... you know I came to this
5 hearing not that knowledgeable about the
6 Commissioner's power to grant waivers for other kinds
7 of... and uhm... I'm looking for where it talks about it.
8 Alright... their testimonies talk about the waivers
9 that the Commissioner did because of the storm, fine,
10 and then in the next paragraph the Commissioner also
11 approved two additional waivers... I'm reading.. which
12 allowed for other sources of renewable liquid fuels
13 to qualify as compliant under the biodiesel mandate.
14 Obviously he did that with authority that was granted
15 to him in Local Law 43, right; how else could he do
16 that, right? And so they mentioned that and so... oh,
17 then they go further, in September of 2012 and
18 February of 2013 the Commissioner approved the
19 substitution of biodiesel for renewable diesel by two
20 major oil refiners and suppliers in the region; both
21 these businesses provided testing data from the EPA
22 registration process, whatever that is, that
23 demonstrated that the blends of renewable diesel fuel
24 oil Grade No. 2 met the ASTM standards for fuel Grade
25 No. 2 as required by Local Law 43 and it gives the

1 section. And then it says, "These actions suggest
2 that it may be worth investigating a broader
3 definition of eligible fuels under Local Law 43 to
4 account for other types of renewable liquid fuels
5 that offer comparable environmental benefits to
6 biodiesel."
7

8 So Scott's point was that... going to the
9 last sentence and actually, you know, playing with
10 the definition of eligible fuels under Local Law 43,
11 you know, didn't sound like a good thing at this time
12 because the testing hasn't caught up and so on. But
13 my question is, the stuff that the Commissioner's
14 already doing pursuant to Local Law 43, where he has
15 the ability to approve waivers based on whatever was
16 in Local Law 43 that gave him that authority; is that
17 okay or do we have a problem with that?

18 SCOTT HEDDERICH: I guess if I... if I
19 could... [interpose]

20 CHAIRPERSON GENNARO: We... you know, we;
21 do we have a problem with that; I mean?

22 SCOTT HEDDERICH: So the process...
23 [interpose]

24 CHAIRPERSON GENNARO: This is... 'cause
25 this... this is already in Local Law 43... [interpose]

2 SCOTT HEDDERICH: Right.

3 CHAIRPERSON GENNARO: he has the ability...

4 SCOTT HEDDERICH: So the process that
5 they used was to take the data that was generated by
6 these renewable diesel manufacturers... [interpose]

7 CHAIRPERSON GENNARO: Right.

8 SCOTT HEDDERICH: for the EPA and then
9 try to apply it here... [crosstalk]

10 CHAIRPERSON GENNARO: Right.

11 SCOTT HEDDERICH: And... and the issue is,
12 you're... you're... [crosstalk]

13 CHAIRPERSON GENNARO: And he apparently
14 had the authority to do that, 'cause he did it.
15 Right.

16 SCOTT HEDDERICH: you're... you're taking a
17 test that wasn't necessarily designed to measure all
18 the things about renewable diesel; say it counts as
19 renewable diesel, and I'll give you a for instance.
20 So biodiesel meets D975; we can get to 5 percent
21 diesel fuel and we're considered compatible to
22 diesel, but within that standard there are specific
23 specification through other ASTM standards that
24 specify what that biodiesel has to be... [interpose]

25 CHAIRPERSON GENNARO: Right.

2 SCOTT HEDDERICH: you know, things that
3 are peculiar to biodiesel, like the percentage of
4 monoglycerides; like our ability flow at cold
5 temperatures, that are measured through these other
6 standards; none of those other things that are
7 ultimately folded into D975 exist for renewable
8 diesel. So you're taking a standard that was
9 designed to look at oil-based petroleum products,
10 diesel distillate, and taking a renewable product
11 that either came from vegetable oil or animal oil and
12 saying well it met all these categories, therefore it
13 should be a-ok. The issue that's come up and the
14 issue that other folks in the value chain, whether
15 it's upstream or downstream have raised is that there
16 are other chemical properties in renewable diesel,
17 just the way there are other properties in biodiesel
18 that are different from petroleum diesel that should
19 be characterized, understood and more appropriate,
20 measured and limits put in place. Now at the end of
21 the day those limits might be... there are no limits,
22 because everything is understood and it performs the
23 way that we think it should and the fact that there's
24 other properties besides properties that would be in

1
2 petroleum diesel, that's a-ok. But until you do all
3 that work you don't know.

4 CHAIRPERSON GENNARO: Right.

5 SCOTT HEDDERICH: And right now what's
6 going on with an ASTM is discussions within the
7 diesel committees specifically around renewable
8 diesel, how to create standards for it; whether those
9 standards are gonna be a subpart of the D975 standard
10 or whether it will be its own separate standard..

11 CHAIRPERSON GENNARO: Right.

12 SCOTT HEDDERICH: that process is working
13 itself out now. So my comments were that certainly
14 from REG's perspective, we think it's premature to
15 put new... to change what's already in the bill and
16 there's obviously... 'cause they did it; there's
17 flexibility. Now whether they should've done it or
18 not, I'll leave that to others to weigh in on...
19 [interpose]

20 CHAIRPERSON GENNARO: Well that's my
21 question, whether or not what's goin' on right now
22 that was written into Local Law 43 which gives him
23 the ability to do these waivers that allow other
24 sources of renewable liquid fuels to qualify as
25 compliant of the biodiesel mandate; I mean is that

2 something that makes any sense to revisit right now
3 when we're doing this and say you know, we're not so
4 cool about this?

5 SCOTT HEDDERICH: So let me... let me try
6 to answer the question this way. The way the process
7 is set up, if I have a renewable diesel plan that
8 I've spent x tens of millions on in developing, I've
9 got data behind it; I've gotta come to the City, I've
10 gotta show them that the data I've generated for EPA;
11 there's sort of a proactive positive process that I
12 have to meet... [interpose]

13 CHAIRPERSON GENNARO: Uhm-hm.

14 SCOTT HEDDERICH: If I just throw in the
15 definition of renewable diesel and don't reference
16 back other ASTM standards, which I can't do because
17 they don't exist, I've now opened the door to allow
18 anyone who's got a close product that they wanna
19 label it as renewable diesel... [interpose]

20 CHAIRPERSON GENNARO: Right.

21 SCOTT HEDDERICH: to try to sneak
22 through. Whether that happens or not... [crosstalk]

23 CHAIRPERSON GENNARO: But... but... but...

24

25

2 SCOTT HEDDERICH: is another question,
3 but you open that door a crack; at least the way the
4 system is... [crosstalk]

5 CHAIRPERSON GENNARO: Okay; I mean but...

6 SCOTT HEDDERICH: now, it's positively
7 designed so that you have to have a bit of a burden
8 of proof... [crosstalk]

9 CHAIRPERSON GENNARO: Okay, so...

10 SCOTT HEDDERICH: but it's more
11 acceptable than... than a broader change.

12 CHAIRPERSON GENNARO: Right. So... so that
13 would argue for... there's something in place that
14 gives him the ability to do waivers and there seems
15 to be enough, you know hoops that someone would have
16 to jump through to get the Commissioner to do this
17 that, we'll leave that alone, but you know, don't
18 take them up on their... which they didn't... were
19 interested... they didn't seem too interested either
20 when I asked them; they said okay, like you know, you
21 mentioned it; it's just like it may be worth
22 investigating a broader definition; I'm like, okay,
23 like you know, you put it out there; should we...
24 should we tee this up and do it or what and they're
25 like, well... you know so they weren't... so you know,

1 they weren't that eager to like move that piece
2 forward; I have no interest in doing that and making
3 more work but my question is, what's already in
4 place; this is not the end of the world, right?
5 Okay.

7 SHELBY NEAL: It's something that I might
8 follow up on, uh... [interpose]

9 CHAIRPERSON GENNARO: Yeah.

10 SHELBY NEAL: so I think the answer
11 depends on who the fuel supplier was, so when you
12 talk about biomass-based diesel replacement fuels you
13 have biodiesel, which is a specific process and meets
14 a specific ASTM specification; then you have hydro-
15 treated renewable diesel, which is chemically very
16 similar to petroleum at the end and which is a high-
17 quality product, and then you have other stuff..

18 [interpose]

19 CHAIRPERSON GENNARO: Uhm-hm.

20 SHELBY NEAL: that happens to meet ASTM
21 D975. And so typically that would be diesel with
22 some ethanol added, diesel with some raw vegetable
23 oil added, diesel with LNG added, or diesel even with
24 water added. So you can include small percentages of
25 all of those products and still meet the requirements

1 of D975. Well why is that? Because D975 is a
2 petroleum specification, it's not a vegetable oil
3 specification; it was never intended for renewal
4 fuels... [interpose]

5 CHAIRPERSON GENNARO: Right.

6 SHELBY NEAL: So the EPA went ahead and
7 included renewable diesel that meets D975 in the
8 renewable fuel standard; purpose of that was to go
9 ahead and jumpstart the markets.
10

11 CHAIRPERSON GENNARO: Yeah.

12 SHELBY NEAL: Well there have been issues
13 with that related to fuel quality; it's encouraged
14 the number of renewable diesel producers who are
15 producing low-quality products versus those who are
16 producing high-quality products; it's probably 5 to
17 1. So if the City is purchasing fuel for example
18 from Diamond Green Diesel in Louisiana, which
19 produces a very high-quality product, I don't think
20 that's concerning... [interpose]

21 CHAIRPERSON GENNARO: Right.

22 SHELBY NEAL: but if they're producing...
23 if they're buying product from most anybody else that
24 could be highly concerning. I think when one is
25 mandating products in the marketplace the issue of

1 fuel quality and quality assurance should be taken
2 very seriously. Now I'm not saying that they aren't,
3 they may... they very well may be, but that is the
4 weakness of a provision like that. So for the
5 purposes of these pieces of legislation, we would
6 support including hydrotreated renewable diesel when
7 a specification and fuel quality assurance measures
8 are in place.
9

10 For our members who make hydrotreated
11 renewable diesel they have to meet ASTM and D975 plus
12 two additional parameters which ASTM is working to
13 include in D975.

14 CHAIRPERSON GENNARO: Okay. So I'd say
15 you know for... for my purposes, if you wish to take a
16 look at that section of Local Law 43 which gives the
17 Commissioner the ability to write these waivers to
18 approve the substitution of biodiesel for renewable
19 diesel... you know, we're kind of making trouble here,
20 'cause we already passed this like two years ago and
21 so but if that became some kind of, you know cause
22 célèbre that, you know, you wanted me to champion
23 that that we need to tweak that, because... because we
24 do or it would advisable to, then you know now would
25

2 kinda be the time to do that or forever hold your
3 piece.

4 SHELBY NEAL: Yeah, I think... [crosstalk]

5 CHAIRPERSON GENNARO: I mean I... I don't...
6 again, I'm just... I wasn't even so aware of this
7 until... I'm like, waivers... only call I got about
8 waiver was when the storm came, you know that... then
9 fine, we have a storm and okay, but I... I... you know, I
10 wasn't even... I'm not gonna say I wasn't aware, I'm
11 gonna say I wasn't so much aware, at least...

12 [crosstalk]

13 SHELBY NEAL: Well my recollection...

14 CHAIRPERSON GENNARO: it looked like I
15 had a little bit of awareness, you know, but...

16 [crosstalk]

17 SHELBY NEAL: My vague recollection at
18 this point...

19 CHAIRPERSON GENNARO: but... but I really
20 didn't, so I just, you know...

21 SHELBY NEAL: of that particular piece of
22 the legislation was that it made sense to include
23 other renewable diesel replacement fuels once they
24 were fully commercial and had property specification.
25 Well I think that makes sense... [interpose]

2 CHAIRPERSON GENNARO: Right.

3 SHELBY NEAL: but there hasn't... and not
4 all of those things have happened, so it would be
5 interesting... [crosstalk]

6 CHAIRPERSON GENNARO: Yeah, I'd say... I'd
7 say, you know, take a look at it; you know now would
8 be you know at least an opportunity to tweak it
9 because we're... you know, we're doin' all this stuff
10 and we could put it on the table, we can do whatever
11 we want; I mean, you know we're just... if that looks
12 like it's something that needs doing, you know you
13 have the technical you know ability to you know make
14 that recommendation and I'm, you know happy to try to
15 move that forward if that would be a good thing to
16 do. I'm just sayin', when I saw this I was like... I
17 didn't... I didn't know that and so certainly I'm not
18 gonna take them up now, 'cause they're not interested
19 themselves in going further to change the definition
20 stuff, but what's already there, if that... you know if
21 that needs tightening or whatever or you would like
22 for me to make a case for it to be tightened, then
23 now would be the time to do that. Is that... did you
24 get that or are you doin' your phone thing?

25 [background comment]

2 CHAIRPERSON GENNARO: So... let the record
3 show I just rolled my eyes, okay so...

4 [laughter]

5 CHAIRPERSON GENNARO: So okay, we had a
6 fun little hearing here, you know and so... yeah, we
7 got som'in done; I'm gonna miss this job, you know,
8 I'm gonna miss this job and but this is not my last
9 hearing, so let's not all get all weepy, you know...

10 [laughter]

11 CHAIRPERSON GENNARO: but uh thank you
12 all for coming; we had fun, had some laughs; got some
13 stuff done. Anyone know what's going on in
14 Washington? No one knows, right; no one knows...

15 [laughter]

16 CHAIRPERSON GENNARO: no one cares; do we
17 have a government; do we not; are we paying our
18 bills; are we not; are we whatever? Is Ted Cruz
19 doing stuff or whatever, I don't know; we don't care...
20 and so we don't care; we... we care about this. Thank
21 you one and all for being here; it's always a
22 pleasure. And with that said... [crosstalk]

23 SHELBY NEAL: Thank you.

24 CHAIRPERSON GENNARO: this hearing is
25 adjourned.

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COMMITTEE ON ENVIRONMENTAL PROTECTION

[background comments]

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date _____ October 29, 2013 _____